



ROSWELL-CHAVES COUNTY

**EXTRATERRITORIAL  
ZONING  
ORDINANCE**

ORDINANCE NO. 80-1

EFFECTIVE DATE  
AUGUST 1, 1980

REVISION NO. 21

EFFECTIVE DATE: May 17, 2025

**THE ROSWELL-CHAVES COUNTY EXTRATERRITORIAL ZONING ORDINANCE (ETZ Ordinance)** was first adopted as Ordinance Number 80-1 and became effective August 1, 1980.

**THE ROSWELL-CHAVES COUNTY EXTRATERRITORIAL ZONING ORDINANCE** is an ordinance of the elected, governing bodies of the City of Roswell and Chaves County. Anyone may propose amendments to this Ordinance by contacting the Chaves County Planning and Zoning Department at PO Box 1817, Roswell, NM 88202.

## **REVISIONS**

(Effective Dates)

Original Passage .....	August 1, 1980
Revised Edition Number One .....	October 27, 1982
Revised Edition Number Two .....	January 28, 1983
Revised Edition Number Three .....	November 13, 1983
Revised Edition Number Four .....	August 11, 1984
Revised Edition Number Five .....	April 28, 1985
Revised Edition Number Six .....	May 28, 1987
Revised Edition Number Seven .....	October 22, 1987
Revised Edition Number Eight .....	October 27, 1989
Revised Edition Number Nine .....	November 25, 1990
Revised Edition Number Ten .....	May 23, 1996
Revised Edition Number Eleven .....	September 22, 2000
Revised Edition Number Twelve .....	September 22, 2002
Revised Edition Number Thirteen .....	October 27, 2005
Revised Edition Number Fourteen .....	May 6, 2014
Revised Edition Number Fifteen.....	May 28, 2015
Revised Edition Number Sixteen.....	October 26, 2017
Revised Edition Number Seventeen .....	August 23, 2018
Revised Edition Number Eighteen .....	March 10, 2020
Revised Edition Number Nineteen.....	October 19, 2020
Revised Edition Number Twenty.....	August 31, 2021
Revised Edition Number Twenty-one.....	May 17, 2025

## TABLE OF CONTENTS

	<b>PAGE</b>
<b>ARTICLE 1</b>	GENERAL STATEMENTS.....1
<b>ARTICLE 2</b>	ADMINISTRATION.....3
<b>ARTICLE 3</b>	RULES OF CONSTRUCTION AND DEFINITIONS.....8
<b>ARTICLE 4</b>	GENERAL PROVISIONS AND SUPPLEMENTAL REGULATIONS. 28
<b>ARTICLE 5</b>	ESTABLISHMENT OF ZONING DISTRICTS.....32
<b>ARTICLE 6</b>	R-1: SINGLE FAMILY RESIDENTIAL.....33
<b>ARTICLE 7</b>	R-2: TWO FAMILY RESIDENTIAL.....34
<b>ARTICLE 8</b>	R-3 MULTIPLE FAMILY RESIDENTIAL.....35
<b>ARTICLE 9</b>	RESERVE.....36
<b>ARTICLE 10</b>	RESERVE.....36
<b>ARTICLE 11</b>	R-S: RURAL SUBURBAN.....37
<b>ARTICLE 12</b>	O-1: OFFICES PROFESSIONAL.....38
<b>ARTICLE 13</b>	C-1: COMMERCIAL .....39
<b>ARTICLE 14</b>	I-1: INDUSTRIAL.....40
<b>ARTICLE 15</b>	PUD-PLANNED UNIT DEVELOPMENT .....41
<b>ARTICLE 16</b>	RESERVE.....45
<b>ARTICLE 17</b>	F-2: FLIGHT ZONE OVERLAY.....46
<b>ARTICLE 18</b>	L-1: ARTERIAL OVERLAY .....47
<b>ARTICLE 19</b>	S-1: OUTDOOR ADVERTISING OVERLAY .....48
<b>ARTICLE 20</b>	AREA AND SETBACK REQUIREMENTS.....51
<b>ARTICLE 21</b>	ADDITIONAL HEIGHT, AREA, AND USE REQUIREMENTS.....52
<b>ARTICLE 22</b>	OFF-STREET PARKING AND LOADING REQUIREMENTS .....53
<b>ARTICLE 23</b>	NON-CONFORMING USE.....54
<b>ARTICLE 24</b>	SPECIAL USE PERMIT.....57
<b>ARTICLE 25</b>	SOLAR AND BATTERY ENERGY STORAGE FACILITY.....63
<b>ARTICLE 26</b>	SEXUALLY ORIENTED BUSINESSES AND ADULT ENTERTAINMENT ENTERPRISES .....66
<b>ARTICLE 27</b>	WORKFORCE CAMPS.....69
<b>ARTICLE 28</b>	RECREATIONAL VEHICLE PARKS.....74
<b>ARTICLE 29</b>	CANNABIS ESTABLISHMENT..... 80
<b>APPENDIX A</b>	FEE SCHEDULE ..... 84
<b>APPENDIX B</b>	SAMPLE PLOT PLANS – ARTERIAL OVERLAY DISTRICT .....85
<b>APPENDIX C</b>	SAMPLE PLOT PLANS – ARTERIAL OVERLAY DISTRICT .....86

**ARTICLE 1**  
**GENERAL STATEMENTS**

**Section 1.1 TITLE**

This Ordinance is known as the "Roswell-Chaves County Extraterritorial Zoning Ordinance" and is referred to elsewhere herein as "this Ordinance".

**Section 1.2 AUTHORITY**

The City of Roswell and the County of Chaves establish this Ordinance pursuant to Sections 3-21-1 through 3-21-14, New Mexico Statutes Annotated, (1978), as amended.

**Section 1.3 PURPOSE**

1. The purpose of this Ordinance is to promote public health, safety, morals, and the general welfare within the Roswell-Chaves County Extraterritorial Zone (ETZ). In accordance with recommendations of the Chaves County Comprehensive Land Use Planning and Zoning Report, the Chaves County Land Use Policies Plan, an update thereto, and the City of Roswell Comprehensive Master Plan, this Ordinance is designed to lessen congestion in the streets or public ways; provide safety from fire, flood waters, and other dangers; provide adequate light and air; prevent the overcrowding of land; facilitate adequate provision for schools, transportation, water, sewerage, parks, and other public requirements; and control and abate the unsightly use of buildings or land.
2. In order to accomplish this purpose, this Ordinance provides for the administration, interpretation, enforcement, and amendment of this Ordinance and divides the territory within the ETZ into zoning districts. This Ordinance regulates the height, number of stories, and size of buildings and other structures; the percentage of a lot that may be occupied; the size of yards, courts, and other open spaces; the density of population; the location and use of buildings, structures, and land; and the erection, construction, reconstruction, alteration, or use of buildings, structures, and land in each zoning district.
3. In carrying out the purpose of this Ordinance, reasonable consideration shall be given to the character of the zoning areas and districts and their peculiar suitability for particular uses, to conserving the value of buildings and land, and to encouraging the most appropriate use of land throughout the jurisdiction.

**Section 1.4 JURISDICTION**

1. This Ordinance governs the territory within approximately two miles of the Roswell City limits as shown on the official ETZ Map. All changes to the ETZ boundary shall be determined by the ETZ Authority (Authority).
2. All property is governed by this Ordinance.

## **Section 1.5 INTERPRETATION AND CONFLICT**

The provisions of this Ordinance are held to be minimum requirements. When provisions of this Ordinance conflict with other valid laws, rules, regulations, or ordinances, the more restrictive shall govern. This Ordinance shall be construed broadly to promote the purposes for which it was adopted.

## **Section 1.6 SEVERABILITY**

If any section of this Ordinance, or any subsection, paragraph, sentence, clause, phrase, provision, or part thereof is, for any reason, held to be illegal, invalid, or unconstitutional, the remaining portions shall not be affected since it is the express intent of the Authority to pass each section, subsection, paragraph, sentence, clause, phrase, or provision, and every part thereof, separately and independently of every other part.

**ARTICLE 2  
ADMINISTRATION**

**Section 2.1 ETZ AUTHORITY**

1. The ETZ Authority (Authority) shall consist of three Chaves County Commissioners and two Roswell City Councilors appointed by their respective boards for terms determined by those boards. The Authority shall consider for approval all amendments to this Ordinance and hear all appeals of decisions made by the ETZ Commission (Commission) or administrative officer.
2. Meeting dates and times shall be determined by Resolution at the beginning of each calendar year pursuant to the New Mexico Open Meetings Act. The Authority shall keep public records of its proceedings and official actions.
3. Members of the Authority shall abstain from voting on any matter which in any way could be construed as a conflict of interest.
4. Any person aggrieved by a decision of the Commission or an administrative officer may appeal to the Authority. Appeals shall be filed within fifteen (15) days of the date of the decision of the Commission or an administrative officer with the Planning Department. An appeal shall stay all proceedings in furtherance of the appealed unless facts indicate that a stay would cause imminent peril to life or property. The Authority shall schedule a public hearing at which the appeal will be heard at a public hearing.
5. Per State Statute 3-21-8.C.2 The Authority may, by a majority vote of all of its members:
  - a. Reverse any order, requirement, decision, or determination of an administrative officer or Commission.
  - b. Decide in favor of the appellant; or
  - c. Make any change in any order, requirement, decision, or determination of an administrative officer or Commission.
6. Any person aggrieved by the decision of the Authority may file an appeal with the District Court within thirty (30) days of the date of the decision of the Authority.

**Section 2.2 ETZ COMMISSION**

1. The ETZ Commission (Commission) shall consist of seven members serving terms of one year. Three members are appointed by the City of Roswell, three members by the Board of Chaves County Commissioners, and the seventh member, who must live in Chaves County outside of the City of Roswell and outside the limits of the ETZ area, shall be elected by the six appointed members. Three of the six appointed members shall reside within the ETZ jurisdiction area. The Commission shall administer this Ordinance, establish the boundaries of the zoning districts, approve requests for changes of zoning, special uses, and variances, and consider requests for proposed amendments to this Ordinance.
2. Meeting date, time and place shall be determined by Resolution at the beginning of each calendar year pursuant to the New Mexico Open Meetings Act. The Commission shall keep public records of its proceedings and official actions.

3. Members of the Commission shall abstain from voting on any matter which, in any way, could be construed as a conflict of interest.
4. Any person aggrieved by a decision made by the Commission may appeal to the Authority in accordance with Section 2.1.4.

### **Section 2.3 CODES ENFORCEMENT OFFICER**

1. The Codes Enforcement Officer (CEO) shall interpret the meaning of the provisions of this Ordinance and shall enforce those provisions. The County Planning and Zoning Department shall maintain an office from which to supply the public with information about the various regulations and ordinances, provide applications for zone changes, special uses, variances, significant change of uses and proposed amendments to this Ordinance, and keep the records of the Commission and the Authority. The County Planning Director shall be responsible for providing information to the Commission and the Authority concerning applications for proposed changes.
2. The CEO may adopt procedures for carrying into effect the provisions of this Ordinance which must be consistent with this Ordinance and are subject to review and approval by the Commission and the Authority.
3. The County Code Enforcement Officer(s) (CEO), Director, the County Attorney, Chaves County Sheriff's Department, and the Roswell City Attorney are designated by this Ordinance as enforcement officers.
4. The CEO, or authorized representative, shall have the authority to enter upon property for the purposes of inspection, provided that no building shall be entered without the consent of the owner or occupant unless properly authorized.
5. Any person aggrieved by a decision made by the CEO or the Director may appeal the decision to the Authority in accordance with Section 2.1.4.

### **Section 2.4 AMENDMENT**

1. Final determination of amendments to this Ordinance shall be made by the Authority.
2. The Authority shall not act on any proposed amendment without a recommendation from the Commission.
3. Requests to amend this Ordinance may be initiated by the Authority, the Commission, an administrative officer or by an owner(s) of real property in the ETZ area. Amendments may become effective only after a public hearing before both the Commission and the Authority.
4. Notice of the date, time, place and agenda of the public hearing along with a general summary of the proposed amendment shall be mailed to the applicant and published in a newspaper with general circulation in Chaves County at least fifteen (15) days prior to the date of the public hearing.
5. Amendments shall require approval from a majority vote of all of the Authority members.

## **Section 2.5 APPLICATION PROCEDURES**

Final determinations of zone changes, special use permits, change of specific use in the I-1 Industrial District and variances shall be made by the Commission.

1. Requests for zone changes, special use permits, change of specific use and variances (applications) may be initiated by the Authority, the Commission, or by an owner of real property in the area to be included in the application. Applications shall be signed by the applicant and submitted to the Planning and Zoning office on official forms at least thirty (30) calendar days before a regularly scheduled Commission meeting. The application shall include: an accurate site plan showing location and dimensions of all existing and proposed improvements to the property; a copy of the properly recorded deed for the property or a contract to purchase the property; the appropriate fee; a copy of the Assessor's map and a list of owners of property within six hundred (600) feet of the property included in the proposed amendment; and any other related information required by the County Planning Director or authorized representative.
2. After receipt of an application, a public hearing shall be scheduled for the next regular meeting of the Commission. Notice of the date, time, place and agenda of the public hearing shall be mailed to the applicant and published in a newspaper with general circulation in Chaves County at least fifteen (15) days prior to the date of the hearing. Notice of public hearing shall be mailed by certified mail, return receipt requested, to the owners, as shown by the records of the County Assessor, of lots or land within the area proposed to be changed and within six hundred (600) feet, excluding public right-of-way, of the area of the proposed amendments, zone changes, special uses, or variances.
3. The County Planning Director or authorized representative shall present a statement of facts concerning the submitted application to the Commission prior to the public hearing at which all concerned people shall have the opportunity to speak. The County Planning Director or Commission may request an opinion from any person or agency to consider factors which bear on the public interest.
4. When considering applications, the Commission shall consider the characteristics of the proposed development; the nature of surrounding land use and zoning; existing public access; existing and proposed surface water drainage; proposed improvement of off-site facilities, such as access roads or surface water drainage facilities; ability to be serviced from and annexed by the City of Roswell; compatibility with the official Land Use Plan; and the distance to residential structures if a commercial or industrial zoning district is proposed.
5. The Commission shall make a decision to approve, to deny, or to approve with conditions any application for a zone change, special use, or variance. Conclusions of Law and Findings of Fact which are sufficient for meaningful review shall be made a part of the decision. All decisions made by the Commission may be appealed per Section 2.1.4 of this article.
6. If the owners of twenty percent (20%) or more of the property included in the application or within one hundred (100) feet, excluding public right-of-way, of the property protest in writing, approval of the request shall require a minimum of 5 votes of the Commission in favor of the request. If less than 5 members are present, the request shall be postponed until the next regularly scheduled Commission meeting.

7. The ETZ Map shall be located in the Planning and Zoning Department. All changes in zoning district boundaries and/or classifications that are approved by the Commission or Authority shall be promptly noted on the Map.

## **Section 2.6 ENFORCEMENT**

1. No land shall be used or occupied, and no building, structure, or part thereof shall be erected, constructed, enlarged, altered, moved, or used in any district, as shown on the Map or described in this Ordinance, except in conformity with the regulations established by this Ordinance for the district or zone in which it is located.
2. No building shall be erected, constructed, enlarged, or altered to exceed the height, number of stories, size, or density of population, occupy a greater percentage of land area, or have smaller front, rear, or side yards or open space, than is specified for the district or zone in which it is located.
3. If any building or structure is placed, erected, constructed, reconstructed, altered, repaired, converted, or maintained; or any building, structure, or land is used in violation of this Ordinance, the Authority, the Commission, or the Code Enforcement Officer (CEO) may institute any appropriate action or proceedings to prevent the unlawful placement, erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; restrain, correct, or abate the violation; prevent the occupancy of the building, structure, or land; or prevent any illegal act, conduct, business, or use.
4. This Ordinance may be enforced by prosecution of violations in any court of competent jurisdiction in Chaves County.
5. Except as otherwise provided in this ordinance any violation of this ordinance shall be punished by a fine not exceeding three hundred dollars (\$300), imprisonment not to exceed ninety (90) days, or both such fine and imprisonment Each day's violation of this ordinance shall constitute a separate offense.
6. Any person, business, firm or corporation that is convicted of illegally discarding or disposing of trash, rubbish, refuse, debris, wreckage, and/or other solid waste on private or public property in any manner other than by disposing it in an authorized landfill shall be punished by a fine not to exceed one thousand (\$1,000) dollars imprisonment of a term not to exceed 90 days, or by both such fine and imprisonment. Each day's violation of this ordinance shall constitute a separate offense.
7. Any person, business, firm or corporation that is convicted of illegally discarding or disposing of hazardous material and/or waste on private or public property in any manner other than by disposing it in an authorized facility or landfill shall be punished by a fine not to exceed five thousand (\$5,000) dollars imprisonment of a term not to exceed 90 days, or by both such fine and imprisonment Each day's violation of this ordinance shall constitute a separate offense.

8. Prosecution of a violation may commence by the issuance of a citation charging the violation. Citations may be issued by the Code Enforcement Officer, or an employee of the County authorized by the Board of County Commissioners to issue such citations.
9. Violations of this ordinance that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty or fine does not prevent the granting of equitable relief.
10. Abstract companies, title companies, engineering firms, and surveying firms performing services in Chaves County shall inform people who divide property into any parcel that is less than five (5) acres in size that they may not be in conformance with this Ordinance. Such companies shall also notify the CEO of the proposed land division.

### **Section 2.7 VARIANCE**

1. Every property owner within the ETZ area shall have the right to apply to the Commission for a variance from this Ordinance when the property owner can show an exceptional situation or condition relating to the property such that the strict enforcement of this Ordinance would constitute an unnecessary hardship or practical difficulty upon the property owner.
2. Prior to granting any variance, the Commission shall hold a public hearing and shall determine that:
  - a. the granting of the variance will not be injurious to the public health, safety, morals, and general welfare of the community; and
  - b. the use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
  - c. the need for the variance arises from some condition peculiar to the property involved and such condition is not due to the general conditions of the neighborhood; and
  - d. the strict application of the terms of this Ordinance for which the variance is sought would result in unnecessary hardship upon the owner of such property; and
  - e. that the granting of the variance would be within the spirit, intent, purpose, and general plan of this Ordinance.
3. Absent showing of unnecessary hardship, practical difficulty, or a complete loss of any financial benefit in the property the Commission shall not approve a request for a variance where the applicant purchased the property after the effective date of this Ordinance and the condition requiring the variance was in existence at the time of the purchase. Following the denial of any application for a variance, the applicant shall not reapply to the Commission for the same variance on the same property for a period of one year.

### **Section 2.8 SPECIAL USE**

1. The designation of zoning districts is made in an effort to create areas within which the uses are similar or substantially uniform. There are uses that, because of their unique character or special or unusual impact upon the use of adjacent property, require special consideration.
2. Special Use Permits are further described in Article 24.

**ARTICLE 3**  
**RULES OF CONSTRUCTION AND DEFINITIONS**

**Section 3.1 RULES OF CONSTRUCTION**

1. In the construction of this Ordinance, the following rules shall be observed unless the construction would be inconsistent with the intent of this Ordinance.
2. Words and phrases shall be interpreted according to the context and the approved use of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed according to such meaning.
3. Words importing the singular number may be extended to several persons or things, words importing the plural number may be applied to one person or thing, and words importing the masculine gender only may be extended to females.
4. In computing time, the first day shall be excluded and the last included, unless the last falls on a Saturday, Sunday, or a legal holiday, in which case the time prescribed shall be extended to include the whole of the following business day.
5. The words "shall" and "will" are mandatory and "may" and "should" are permissive or directory.
6. Words not defined in this section shall retain their plain meaning.

**Section 3.2 DEFINITIONS**

The following definitions have been adopted for use with this Ordinance.

**ABANDONMENT:** When a structure or use has been inactive for a six-month period or more.

**ACCESSORY BUILDING, STRUCTURE OR USE:** A subordinate detached building or use which is incidental to and customary in connection with the principal building or use and which is located on the same lot with the principal building or use.

**ADULT ARCADE:** An enterprise where, for any forms of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines, for viewing by five or fewer persons each, are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

**ADULT CABARET:** A nightclub, bar, restaurant, or similar commercial enterprise, whether or not alcoholic beverages are served, which features: (a) persons who appear nude or semi-nude; or (b) live performances which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas; or (c) films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

**ADULT DAY CARE CENTER/ FACILITY:** A facility licensed by the State as an adult day care center or as an adult respite facility, which provides care, services and supervision for less than twenty-four (24) hours a day to three (3) or more adults, who because of diminished mental or physical capacity, find it difficult to care for themselves in their own residence during the day. Adult day care does not include public or private school facilities or senior recreation centers.

**ADULT DAY CARE HOME:** A private dwelling in which a resident of the dwelling has been licensed by the State to provide adult day care home services or adult respite home services, and who provides care, services and supervision for less than twenty-four (24) hours a day to at least three (3) adults but not more than five (5) adults, who because of diminished mental or physical capacity find it difficult to care for themselves in their own residence during the day. The use as an adult day care home or adult respite home shall be an accessory use. The primary use shall be as a private residence.

**ADULT ENTERTAINMENT EMPLOYEE:** Any and all persons, including managers, entertainers, and independent contractors who work in, render services to, and have direct interaction with clientele of the sexually oriented business or adult entertainment enterprise.

**ADULT ENTERTAINMENT ENTERPRISE FACILITY:** Any commercial or retail enterprise which (a) offers entertainment or services, including rooms, readily available for purchase, rental, viewing, or use by patrons of the establishment; and (b) is represented to be or is primarily in the business of offering services which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas and exclude minors by virtue of age. "Adult entertainment enterprises" shall include, but not be limited to, the following: adult arcade, adult cabaret, adult mini theater, adult motel, adult motion picture theater, adult panorama establishment, adult theater, live adult entertainment enterprise, massage parlor, nude or semi-nude model studio, sexual encounter center, and sexual encounter establishment.

**ADULT MINI THEATER:** An enclosed building with a capacity of less than 50 persons, a portion of an enclosed building with a capacity of less than 50 persons, or an outdoor theater with a capacity of less than 50 persons used for presenting motion picture films, video cassettes, cable television, or any other such visual media, distinguished or characterized by emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined in this chapter for observations by patrons therein.

**ADULT MOTEL:** A hotel, motel, or similar commercial enterprise which:

- a. Offers accommodations to the public for any form of consideration and provides patrons with (1) closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are distinguished or characterized by emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas; and (2) which has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or
- b. Offers sleeping rooms for rent on an hourly basis; or
- c. Allows tenant(s) or occupant(s) of a sleeping room to sub-rent on an hourly basis.

**ADULT MOTION PICTURE:** An enclosed building with a capacity of 50 or more persons, a portion of an enclosed building with a capacity of 50 or more persons, or an outdoor theater with a capacity of 50 or more persons used for presenting motion picture films, video cassettes, cable television, or any other such visual media distinguished or characterized by emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined therein for observation by patrons therein.

**ADULT PANORAM ESTABLISHMENT:** Any building or portion of a building which contains device(s) which for payment of a fee, membership fee, or other charge, is used to exhibit or display a picture, view, or other graphic display distinguished or characterized by emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined therein.

**ADULT THEATER:** A concert hall, theater, auditorium, or similar commercial enterprise which, for any form of consideration, regularly features persons who appear nude or semi-nude, or live performances which are distinguished or characterized by emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

**AGRICULTURE:** The use of land and/or structures for the commercial growing of farm crops such as plants, crops, trees, forest products, orchard crops, livestock, poultry, and fish – includes ranching and farming.

**AIRPORT:** Any area which is used or is intended to be used for the landing or take-off of aircraft, and which is approved by the federal Aviation Administration. The use as an airport includes any appurtenant areas which are used, or intended to be used, for airport buildings, other airport facilities, or rights-of-way.

**ALLEY:** A passage or way open to public travel which generally affords a secondary means of vehicular access to abutting lots and is not intended for general traffic circulation.

**APARTMENT:** Any building or portion thereof which contains three or more dwelling units.

**AMATEUR RADIO TOWER:** An antenna structure operated by a federally licensed amateur radio operator for amateur radio activities and does not mean citizens band or commercial antennas. Maximum height shall be fifty-five (55) ft. measured from natural ground and shall be setback from property lines the same distance as the height of the tower.

**ANIMAL, DOMESTIC:** An animal of a species of vertebrates that has been domesticated by humans so as to live and breed in tame conditions and depend on humankind for survival.

**AUTOMOBILE GRAVEYARD:** Any property which is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, dismantled, or inoperable motor vehicles or motor vehicle parts – may include repair facilities as an ancillary use.

**BASEMENT:** Any area of the building having its floor subgrade (below ground level) on all sides.

**BATTERY ENERGY STORAGE FACILITIES:** One or more battery cells for storing electrical energy in a Battery Energy Storage System (“BESS”) with a Battery Management System (“BMS”).

**BATTERY ENERGY STORAGE SYSTEM (BESS):** One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a standalone 12-volt car battery or an electric motor vehicle. A battery energy storage system is classified as a Tier 1 or Tier 2 Battery Energy Storage System as follows:

- A. Tier 1 BESS has an aggregate energy capacity less than or equal to 600kWh and, if in a room or enclosed area, consists of only a single energy storage system technology.
- B. Tier 2 BESS has an aggregate energy capacity greater than 600kWh or is comprised of more than one storage battery technology in a room or enclosed area.

**BATTERY MANAGEMENT SYSTEM (BMS):** An electronic regulator that manages a Battery Energy Storage System by monitoring individual battery module voltages and temperatures, container temperature and humidity, off-gassing of combustible gas, fire, ground fault and DC surge, and door access and capable of shutting down the system before operating outside safe parameters.

**BROWNFIELD:** A former industrial or commercial site containing environmental pollution such as hazardous waste or industrial byproducts.

**BED AND BREAKFAST:** A limited commercial activity, conducted within a structure, which includes dining and bathroom facilities and sleeping rooms for short term guest lodging (a bed and breakfast requires a special use permit in any zoning district).

**BOARD:** The Chaves County Board of Commissioners

**BOARDING HOUSE:** A building other than a hotel, where, for compensation and by prearrangement for definite periods, meals or lodging and meals are provided for at least three (3) but not more than twelve (12) people.

**BODY SHOP:** A shop where vehicle exteriors, or bodies, are replaced and/or reconditioned.

**BUILDING:** Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind, having a roof supported by columns or walls.

**BUILDING HEIGHT:** The height of a building measured from the ground surface level to the highest point of the building.

**BUNK HOUSE:** An accessory structure used as a dwelling unit, being less than one thousand-six hundred (1600) square feet in size, occupied by a person(s) working on the property or for the property owners on which the structure is located and is not for rent, lease, or sale. Bunk houses are not assigned rural addresses separate from the principal residence on the property.

**BUSINESS:** Any occupation, employment, or enterprise which occupies time, attention, labor, and materials, or where merchandise is exhibited or sold, or where services are offered.

**CANNABIS:** All parts of the plant genus Cannabis containing a delta-9- tetrahydrocannabinol concentration of more than three-tenths percent on a dry weight basis, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin; and does not include: the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other

compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake; or the sterilized seed of the plant that is incapable of germination; or the weight of any other ingredient combined with cannabis products to prepare topical or oral administrations, food, drink or another product.

**CANNABIS CONSUMPTION AREA:** An indoor area where cannabis products may be served and consumed.

**CANNABIS COURIER:** A person that transports cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.

**CANNABIS ESTABLISHMENT:** A cannabis testing laboratory; a cannabis manufacturer; a cannabis retailer; a cannabis research laboratory; a vertically integrated cannabis establishment; a cannabis producer microbusiness; an integrated cannabis microbusiness; or a cannabis consumption area.

**CANNABIS EXTRACT:** A product obtained by separating resins, tetrahydrocannabinols or other substances from cannabis by extraction method approved by the Cannabis Control Division; and does not include the weight of any ingredient combined with cannabis extract to prepare topical or oral administrations, food, drink or another product.

**CANNABIS FACILITY:** A building, space or grounds licensed for the production, possession, testing, manufacturing or distribution of cannabis, cannabis extracts or cannabis products.

**CANNABIS GROWTH AND EDUCATIONAL STORE:** A retail facility that sales items used to assist in the growth and cultivation of cannabis and/or the production of cannabis integrated product but shall not possess cannabis of any kind.

**CANNABIS INTEGRATED PRODUCT:** A product that is or that contains cannabis or cannabis extract, including edible or topical products that may also contain other ingredients.

**CANNABIS MANUFACTURER:** A person or facility that: manufactures cannabis products; packages cannabis products; has cannabis products tested by a cannabis testing laboratory; or purchases, acquires, sells or transports wholesale cannabis products to other cannabis establishments.

**CANNABIS PRODUCER:** A person or facility that: cultivates cannabis plants; has unprocessed cannabis products tested by a cannabis testing laboratory; transports unprocessed or processed cannabis products only to other cannabis establishments; or sells cannabis products wholesale.

**CANNABIS PRODUCER MICROBUSINESS:** A cannabis producer at a single licensed premise that possesses no more than two hundred (200) total mature cannabis plants at any one time.

**CANNABIS RESEARCH LABORATORY:** A facility that produces or possesses cannabis products and all parts of the plant genus Cannabis for the purpose of studying cannabis cultivation, characteristics or uses.

**CANNABIS RETAILER:** A person or facility that sells cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.

**CANNABIS TESTING LABORATORY:** A person or facility that samples, collects and tests cannabis products and transports cannabis products for the purpose of testing.

**CARPORT:** A roofed structure with two (2) or more open sides under which vehicles are stored.

**CEMETERY:** A burial ground.

**CHANNEL:** The geographical area within the natural or artificial banks of a watercourse required to convey continuously or intermittently flowing water.

**CLINIC:** An establishment where human patients are not lodged overnight but are admitted for examination and treatment by a group of physicians or dentists practicing medicine together.

**CLOSURE, DECOMMISSIONING AND RECLAMATION PLAN:** A document that outlines the activities and objectives for the reclamation and restoration of a site after it has been used for a specific purpose. The plan shall include a total cost estimate for completion and a financial bond of an equal amount, made payable to Chaves County. The Authority shall have the right to review and require corrections to the cost estimate and financial bond every five (5) years.

**CLUB or LODGE:** A building and/or facilities owned or operated by a corporation, association, person, or persons for a social, educational, or recreational purpose, but not primarily operated as a business.

**COMMERCIAL CANNABIS ACTIVITY:** The cultivation, production, possession, manufacture, storage, testing, researching, labeling, transportation, couriering, purchase for resale, sale or consignment of cannabis products; and does not include activities related only to the medical cannabis program, to cannabis training and education programs or to the personal cultivation or use of cannabis.

**COMMERCIAL USE:** A use operated for profit or compensation.

**COMMUNITY CENTER:** A place where people from a particular community can meet for social, educational, or recreational activities.

**CONSUMER:** A person twenty-one years of age or older who purchases, acquires, owns, possesses or uses a cannabis product for a purpose other than resale.

**COUNTY:** The area lies within the corporate boundaries of Chaves County and outside the boundaries of any incorporated municipality. Chaves County, New Mexico.

**CULTIVATION OF CANNABIS:** Any activity involving the planting, growing, harvesting, drying, curing, grading or trimming of cannabis.

**DAIRY:** An establishment that is engaged in the production, sale, and distribution of milk and milk products.

**DAY CARE CENTER:** A commercial childcare facility, licensed by the State of New Mexico, that provides care, services, and supervision for children in a 24-hour period.

**DAY CARE HOME, FAMILY:** An occupied residential dwelling, licensed by the State of New Mexico, in which care, services, and supervision are provided by individuals residing in the dwelling for

three (3) to six (6) children on a regular basis for less than 24 hours per day. The care giver's own children, grandchildren, nieces, or nephews shall be counted towards the permitted number of children.

**DAY CARE HOME, GROUP:** An occupied dwelling in which care, services, and supervision are provided by individuals residing in the dwelling for seven (7) to twelve (12) children on a regular basis for less than 24 hours per day. The care giver's own children, grandchildren, nieces, or nephews shall be counted towards the permitted number of children.

**DEBRIS:** The remains of something broken or destroyed.

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

**DEVELOPMENT PLAN:** A set of documents containing detailed information of the development, including but not limited to, the project area; lifespan of the project; building locations, elevations and sizes; roads and driveways; flood and environment impact; off-street parking areas; stormwater and erosion control; utility services; landscaping and open space areas; and a traffic and construction management plan.

**DEPARTMENT:** The Chaves County Planning and Zoning Department.

**DIRECTOR:** The Director of the Chaves County Department of Planning and Zoning or designee.

**DISTRICT:** A designated portion] of the Extraterritorial zone for which the regulations governing the use of buildings, or land, or the height, area, and density of buildings are uniform.

**DRIVEWAY APRON:** Is the section where a private driveway connects to the public roadway, usually extending from the edge of pavement of the public road to the property line.

**DNL:** Yearly day-night sound level used by the Federal Aviation Administration as a standard metric that accounts for the noise levels of all individual aircraft events, the number of times those events occur and the period of day/night in which they occur over a complete 24-hour period measured in decibel (dB).

**DUPLEX:** A two-family dwelling arranged, intended, or designed to be occupied by two families living independently of each other, having separate cooking facilities in each dwelling unit and constructed to NM Residential Building Code standards or engineered by a license New Mexico engineer.

**DWELLING:** A building or portion thereof, designed or used exclusively for residential purposes but does not include hotels, motels, boarding houses, nursing homes, group care residences, workforce camps or recreational vehicles.

**DWELLING, SINGLE FAMILY:** A single building designated for occupancy by one family.

**DWELLING, TWO-FAMILY:** A single building designated for occupancy by two families.

**DWELLING, MULT-FAMILY:** A single residential building with more than one dwelling unit, such as but not limited to, duplex, triplex or fourplex.

**DWELLING UNIT:** A single residential unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, cooking, and eating that is built to NM Residential Building Code or Manufactured Home-HUD Standards.

**FAMILY:** One or more persons related by blood or marriage, or a group of not more than five persons not related by blood or marriage living together in a dwelling unit.

**FARM:** Land which is used for the commercial growing, producing, and/or storage of agricultural crops such as, vegetables, fruit, nuts, cotton, grain, and similar products. A farm shall have a valid decreed water right in excess of three-acre feet per annum. The term farm includes treatment and storage of produce as a secondary function, sale and distribution of farm products other than agricultural machinery, roadside stands for sale of farm products, and residences of those conducting and engaged in the operation. A farm shall not include feed lots, dairying, poultry production, hog farms, commercial sanitary landfills, or similar type uses.

**FEED LOT:** A place of confinement for livestock where feeding is by a method other than grazing, and which is operated as a commercial enterprise.

**FLOOR AREA, GROSS:** Is the total square footage of a structure, measured from the outside of its exterior walls.

**GARAGE, COMMERCIAL:** A building or portion of a building other than a private garage designed or used for parking, servicing, repairing, equipping, hiring, selling, or storing motor vehicles.

**GARAGE, PRIVATE:** An accessory building or portion of a principal building designed or used for the parking or temporary storage of motor vehicles owned and used by the occupants of the building to which the garage is accessory. Only one of the vehicles may be a commercial vehicle of no more than two-ton maximum gross cargo weight.

**GOVERNMENT FACILITY:** A facility, agency or area used for public purposes and owned or operated by an instrumentality or agency of federal, state or local government.

**GRAZING:** The commercial raising of domestic livestock on open grassland, rangeland, or fenced pasture.

**GROUND COVER:** Stored quantities of organic material such as enriched soil, bark chips, wood chips, manure, or sludge or inorganic material such as sized gravel, rock, broken brick, or sand material which would be customarily incidental to the growth or final landscaping of the plants.

**GREENHOUSE:** A structure used for the commercial growing of plants.

**GUEST:** Any person occupying a room for lodging purposes.

**GUEST HOUSE:** An accessory structure used as a dwelling unit, not to exceed eight hundred (800) square feet in size and constructed to NM Residential Building Code or Manufactured Home HUD standards.

**GUEST ROOM:** Any room or rooms used or intended to be used by a guest for sleeping purposes.

**HARDSHIP – UNNECESSARY:** A situation where no reasonable use can otherwise be made of the land.

**HARDSHIP – PRACTICAL DIFFICULTY:** When the affected property or structure cannot, because of physical limitations or other “practical difficulties”, be used for a permitted use under the applicable zoning classification.

**HAZARDOUS MATERIAL:** A chemical or substance that is classified as a physical hazard material or a health hazard material, whether the chemical or substance is in usable or waste condition. (See NFPA 400 for hazardous material list)

**HEMP:** The plant Cannabis sativa L. and any part of that plant, including seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more than three-tenths percent of a dry weight basis.

**HOME BURIAL SITE:** A human burial site for a family member of the current or past property owner that is located on a lot.

**HOME OCCUPATION:** A business, trade, or occupation operated within a dwelling unit, accessory structure, or on the property with a residential dwelling unit, that meets the following criteria: the activity is clearly an incidental and secondary use of the residential use; only members of the residing family are engaged in the business, trade or occupation; all activities are conducted entirely off-site of the property or within the dwelling unit or accessory structure and there is no external evidence of the activity, such as commercial vehicles, outside storage, signs, noise, dust, odors, noxious fumes, or other nuisances which would change the residential character of the property or neighborhood.

**HOME GROWN OR HOMEMADE:** Grown or made for purposes that are not dependent on or conditioned upon the provision or receipt of financial consideration.

**HOTEL:** Any building in which lodging or boarding and lodging are provided for more than six (6) persons and offered to the public for compensation and in which the main ingress and egress to and from all rooms are made through an inside lobby or office.

**HOUSEHOLD:** A dwelling unit, including any place in or around the dwelling unit at which an occupant of the dwelling unit produces, manufactures, keeps or stores homegrown cannabis or homemade cannabis products.

**IMMATURE CANNABIS PLANT:** A cannabis plant that has no observable flowers or buds.

**INOPERABLE VEHICLE:** Any motor vehicle, not to include agricultural equipment, which by reason of dismantling, disrepair or other cause, is incapable of being propelled under its own power.

**INSTITUTION:** A public or non-profit organization having a social, educational, or religious purpose as a school, church, hospital, reformatory, etc.

**INTEGRATED CANNABIS MICROBUSINESS:** A person that is authorized to conduct one or more of the following: production of cannabis at a single licensed premise; provided that the person shall not possess more than two hundred total mature cannabis plants at any one time; manufacture of cannabis products at a single licensed premise; sales and transportation of only cannabis products produced or

manufactured by that person; operation of only one retail establishment; and couriering of cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.

**JUNK:** Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, or waste; junked, dismantled, wrecked, or inoperable motor vehicles, or parts thereof; iron, steel, and other old or scrap ferrous or non-ferrous material.

**JUNKYARD:** The use of a lot(s), or portion thereof, or any establishment or place of business maintained, used, or operated for storing, keeping, buying, or selling junk. A junkyard may include a lot or parcel of land containing three (3) or more inoperable vehicles.

**KENNEL:** Any property on which dogs and/or cats are being kept for the business of buying, selling, breeding, training, or boarding but does not include veterinary hospitals, humane societies, or animal shelters/pounds approved by a governmental agency.

**LANDSCAPING:** The planting and maintenance of live plants including trees, shrubs, flowers, vines, grasses, or other low-growing plants that are native or adaptable to the climatic conditions of the Chaves County area. In addition, the landscape design may include some natural and manufactured materials including but not limited to rocks, fountains, reflecting pools, works of art, screens, walls, fences, benches, and other types of outdoor furniture, subject to approval by the Commission.

**LAUNDROMAT:** A building in which domestic type washing machines and/or dryers are provided on a rental basis for use by individuals doing their own laundry.

**LICENSED PREMISES, CANABIS:** A location that includes all enclosed public and private areas at the location that are used in the business and includes offices, kitchens, restrooms and storerooms; all areas outside of a building that are specifically included in the license for the production, manufacturing, wholesale sale or retail sale of cannabis products; and with respect to a location that is specifically licensed for the production of cannabis outside of a building, the entire unit of land that is created by subsection or partition of land that the licensee owns, leases or has a right to occupy.

**LIQUOR ESTABLISHMENT:** Premises which may be open to the general public, where alcoholic liquor is sold by the individual drink or package.

**LIVE ADULT ENTERTAINMENT ENTERPRISE:** Any building or portion of a building which contains any exhibition or dance wherein any employee or entertainer is unclothed or in such attire, costume, or clothing so as to expose to view any portion of the female breast below the areola, or male or female genitals, vulva, anus, and/or buttocks, or any portion of the pubic hair and which exhibition or dance is for the benefit of member or members of the adult public, or advertised for the use or benefit of a member of the adult public, held, conducted, operated, or maintained for profit, direct or indirect.

**LOADING, OFF STREET:** An area of a lot that is reserved for loading and unloading items that are essential to the use of the property. Specific requirements are listed elsewhere in this Ordinance.

**LODGING:** A place in which someone lives or stays temporarily.

**LODGING HOUSE:** A building where lodging is provided for compensation for three or more guests, but not to exceed more than twelve (12) guests per night.

**LOT:** A parcel of land adequate for occupancy by a use permitted by this Ordinance, providing required yards, building area, and off-street parking. This parcel of land, which is a part of a legal subdivision or described by metes and bounds or other accepted means, shall have a map or other legal description which is recorded in the office of the Chaves County Clerk.

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

**LOT, DEPTH:** The mean horizontal distance between the front and rear lot boundary lines.

**LOT, INTERIOR:** A lot other than a corner lot.

**LOT LINE, FRONT:** The legal boundary of a lot that borders on a street or road right-of-way, and in case of a corner lot may be either frontage.

**LOT LINE, REAR:** The legal boundary of a lot which is most distant from and more or less parallel to the front lot line.

**LOT OF RECORD:** A lot which is part of a legal subdivision, the plat of which has been recorded in the office of the Chaves County Clerk, or a parcel or tract of land, the deed to which has been recorded in the office of the Chaves County Clerk.

**LOT, THROUGH:** A lot having frontage on two (2) non-intersecting, more or less parallel streets – not a corner lot.

**LOT, WIDTH:** The horizontal distance between the side lot lines.

**MANUFACTURE-CANNABIS:** To compound, blend, extract, infuse, package or otherwise prepare a cannabis product.

**MANUFACTURED HOME:** A structure built on a permanent chassis with a body width exceeding eight (8) feet and body length exceeding forty (40) feet designed to be used as a dwelling unit that is constructed to HUD Manufactured Home Construction and Safety Standards, with or without a permanent foundation, when connected to the required utilities, plumbing, heating, cooling, and electrical systems.

**MASSAGE PARLOR:** An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or a licensed massage practitioner operating pursuant to Chapter 61 Article 12C NMSA. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

**MEDICAL FACILITY:** A place where sick or injured people are given care or treatment.

**MINOR:** A person who is under the age of eighteen years.

**MOBILE, PORTABLE OR TEMPORARY CANNABIS UNIT:** Any motorized or non-motorized vehicle, trailer, or other device designed to be portable and not permanently attached to the ground from which items are ordinarily vended, served, or offered for sale.

**MOTEL:** Any building in which lodging is provided for more than six (6) persons and offered to the public for compensation and in which the rooms are usually accessible from an outdoor parking area.

**MOTOR VEHICLE:** Any wheeled vehicle which is self-propelled or intended to be self-propelled.

**MOTOR VEHICLE, INOPERABLE:** Any motor vehicle which for any reason is incapable of being propelled under its own power.

**MOTOR VEHICLE, DISMANTLED:** Any motor vehicle from which some part or parts which are ordinarily a component thereof have been removed or are missing.

**MULCH:** Material such as bark or wood chips, sized gravel or rock, or approved alternative material, installed over a plastic barrier of at least 6 mil thickness, to be used as ground cover in those portions of required landscaped areas not covered by vegetative matter.

**MULTIGENERATIONAL HOUSING:** A temporary accessory dwelling unit located on the same lot or parcel as the main dwelling unit that is used by family members who are related by blood, common ancestry, marriage, guardianship or adoption. Multigenerational housing requires a Special Use Permit and is not to be rented or leased to non-family members and is not to be included in the sale or purchase of the property and shall not be larger than the principal structure.

**NIGHT CLUB:** Any establishment, including a private club, which typically allows or provides on-site consumption of food and/or drink (alcoholic or non-alcoholic), music, and/or dancing after 10:00 PM on any given night.

**NON-CONFORMING ADULT ENTERTAINMENT USE:** A sexually oriented business or an adult entertainment enterprise which lawfully existed prior to the enactment of Article 26 and is maintained after the effective date of Article 26 although it does not comply with the sexually oriented business and adult entertainment enterprise land use regulations set forth in Article 26.

**NON-CONFORMING LOT:** is a parcel of land that, at the time of its establishment, met the minimum lots size requirements for the zone in which it is located but which, because of subsequent changes to the minimum lot size applicable to that zone, is now smaller than the minimum lot size required by this ordinance.

**NON-CONFORMING STRUCTURE:** a structure that complied with zoning and development regulations at the time it was constructed but because of subsequent changes to the zoning and/or development regulations, it no longer fully complies with this ordinance.

**NON-CONFORMING USE:** The use of a structure or land which is not in conformance with this Ordinance for the zoning district in which it is located.

**NON-CONFORMING USE, LEGAL:** The use of a structure or land which was in existence prior to the current zoning standards of the area in which the property is located when the current standards

exclude or prohibit the use. Such nonconforming uses are legal subject to the provisions of this Ordinance and are known as "grandfathered uses".

**NUDE OR SEMI NUDE MODEL STUDIO:** Any building or portion of a building where person(s) appear nude or semi-nude or displays specified anatomical areas, for money or any form of consideration to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons.

**NUDITY:** The showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the depiction of covered male genitals in a discernibly turgid state

**NURSERY:** Any land on which nursery stock is propagated, grown, or cultivated and from which source nursery stock is offered for distribution or sale. Mulch may be stored and sold at a nursery but may not exceed 15% of the gross annual sales of the nursery.

**NURSERY STOCK:** Any plant grown, propagated, or collected for planting, or any plant propagated for landscaping or decorative purposes – does not include field, vegetable, or flower seeds.

**NURSING HOME:** A home for the aged or infirm in which three or more persons but not to exceed more than twelve (12) people, are received, kept, or provided with shelter and/or care for compensation – does not include hospitals, clinics or similar institutions.

**OBSCENE:** An act or expression which:

- a. The average person, applying contemporary community standards, would find when considered as a whole, appeals to the prurient interest; and
- b. Explicitly depicts or describes patently offensive representations or descriptions of:
  1. Ultimate sexual acts, normal or perverted, actual or simulated, or
  2. Masturbation, fellatio, cunnilingus, bestiality, excretory functions, or lewd exhibition of the genitals or genital area, or
  3. Violent or destructive sexual acts including but not limited to human or animal mutilation, dismemberment, rape or torture; and
- c. When considered as a whole, and in the context in which it is used, lacks serious literary, artistic, political or scientific value.

**OFFICE:** A place where consulting, record keeping, or the work of a professional person such as a physician or lawyer is done, or a headquarters of an enterprise or organization – does not include the sale of commodities.

**OPEN SPACE:** Land area unoccupied by buildings, driveways, parking areas, roads, streets or structures. Open space includes parks, areas used for farms or forestry, and certain areas within planned development.

**OVERLAY ZONES:** A set of zoning requirements that is described in the ordinance text, is mapped, and is imposed in addition to those of the underlying district. Developments within the overlay zone must conform to the requirements of both zones or the more restrictive of the two.

**PARKING, OFF STREET:** An area of a lot that is reserved for the storing of operable vehicles used on a daily basis by the occupants or customers of the buildings on the lot. Specific requirements are listed elsewhere in this Ordinance.

**PERSON:** An individual, corporation, governmental agency, estate, business, trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

**PHOTOVOLTAICS (PV):** Materials and devices, including photovoltaic panels, that absorb sunlight and convert it directly into electricity. The terms “Photovoltaics” and “PV” shall be considered to be interchangeable.

**PHOTOVOLTAICS (PV), INTEGRATED:** Photovoltaics incorporated into building materials, such as shingles. The terms “Integrated Photovoltaics” and “Integrated PV” shall be considered to be interchangeable.

**PLANNED UNIT DEVELOPMENT (PUD):** A land use planning technique which permits flexibility and innovation in design, placement of buildings, use of open spaces, and off-street parking areas and encourages a more creative approach to the utilization of the land while simultaneously providing a compatible and stable environment in harmony with and at substantially the same population density and area coverage of the surrounding area. PUDs may be proposed for any use or combination of uses allowed in the zoning districts established by this Ordinance.

**PRACTICAL DIFFICULTY:** When the affected property or structure cannot, because of physical limitations or other “practical difficulties”, be used for a permitted use under the applicable zoning classification.

**PROCESSED CANNABIS:** Having been subject to a special process or treatment

**PUBLIC PLACE OR EVENT:** A place to which the general public has access and includes hallways, lobbies and other parts of apartment houses and hotels that do not constitute rooms or apartments designed for actual residence; highways; streets; schools; places of amusement; parks; playgrounds; and places used in connection with public passenger transportation.

**QUALIFIED PATIENT:** A resident of New Mexico who holds a registry identification card pursuant to the Lynn and Erin Compassionate Use Act.

**RATED CAPACITY:** The maximum capacity of a Solar Facility based on the sum of each photovoltaic system’s nameplate capacity reported as Watts Direct Current (WDC) or Watts Alternating Current (WAC).

**RANCH:** Property used to commercially graze livestock.

**RECIPROCAL CANNABIS PARTICIPANT:** A person who is not a resident of New Mexico and who holds proof of enrollment by a governmental regulatory authority to participate in the medical cannabis program of another state of the United States, the District of Columbia or a territory or commonwealth of the United States in which the person resides or a person who holds proof of enrollment by a governmental regulatory authority of a New Mexico Indian nation, tribe or pueblo to participate in its medical cannabis program.

**RECREATIONAL VEHICLES:** A self-contained driven or towed portable unit, being four hundred (400) square feet or less when measured at the largest horizontal projection, designed or constructed to provide temporary or readily movable living quarters for recreation, camping, travel or other uses. RVs shall also include, but not be limited too, pickup campers, chassis mounted motor homes, mini-motor homes, recreational vans, pop up tent/hardtop trailers, converted buses, camping trailers, recreational travel trailers, fifth wheel trailers, park models or any other vehicles which are constructed to include a chassis, integral wheels and a towing hitch. A recreational vehicle may be referred to anywhere in this ordinance as RV.

**RECREATIONAL VEHICLES (RV) PARK:** A parcel of land under the control of any person, organization or governmental entity upon which two or more recreational vehicles are occupied for lodging purposes.

**RELIGIOUS INSTITUTION:** A place or structure that is used primarily for religious worship, which may include onsite housing, as permitted in this ordinance, for religious leaders and similar staff, and which may include accessory facilities and structures.

**RIGHT-OF-WAY:** The total area of land that is deeded, reserved by plat, or otherwise acquired by a governing body that is dedicated for the public movement of vehicles, people, and goods.

**RUBBISH:** Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

**RESIDENCE:** A place where someone lives.

**RUINS:** The remains of a structure that is in disrepair, decayed or has been destroyed.

**SEMI-NUDE:** A state of dress in which clothing covers no more than the genitals, pubic region, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices.

**SENSITIVE LAND USES:** Those land uses which are particularly sensitive to the negative secondary impacts associated with sexually oriented businesses and adult entertainment enterprises, and include the following:

- a. Residences,
- b. Residentially zoned areas located either in the county or the ETZ,
- c. Public and private schools and day care institutions,
- d. Public parks and playgrounds and commercial recreational uses,
- e. Churches or other religious facilities or institutions.
- f. Nightclubs, private clubs and similar business enterprises where the percentage of sales of alcohol or cannabis comprise more than 50 percent of the enterprise's income revenue

**SERVICE STATION:** Any land, building, structures or premises used for the retail sale of motor vehicle fuels, oils, accessories or for servicing or lubricating motor vehicles or installing and repairing

parts and accessories. This does not include the repairing or replacing of bodies or fenders of motor vehicles, painting motor vehicles, or commercial garages.

**SEXUAL ENCOUNTER CENTER:** A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration specified sexual activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

**SEXUAL ENCOUNTER ESTABLISHMENT:** An establishment other than a hotel, motel, or similar establishment offering public accommodations, which, for any form of consideration, provides a place where two or more persons may congregate, associate, or consort to perform specified sexual activities. This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in sexual therapy.

**SEXUALLY ORIENTED BUSINESS:** The same as an ADULT ENTERTAINMENT ENTERPRISE.

**SIGN:** Any surface and/or supporting structure, visible from a roadway or public access, used or intended to be used to advertise or inform. This may be a display, light, device, figure, painting, drawing, message, plaque, structure, or similar object. If multiple surfaces are being supported by a structure, each surface shall be considered a separate sign. Any structure used or intended to be used to support a sign surface shall be considered a sign.

**SIGN – ABANDONED:** A sign which no longer is serviceable to advertise an existing business or organization, a service performed, or a product sold; a sign that has not been maintained (kept free of rust, rot, insect infestation, bird nests, and other deterioration); a sign which is structurally damaged, unsecured, or in severe disrepair; or a sign with a peeling, faded, or unreadable message.

**SIGN – BILLBOARD:** A sign which is used to advertise a function, business, or activity that is not related to the use of the property on which the sign is located. Also known as an outdoor advertisement sign and/or off-premise sign.

**SIGN – DIRECTIONAL:** A sign containing directional information about public places owned or operated by federal, state, or local governments or their agencies; publicly or privately-owned natural phenomena, historic, cultural, scientific, educational, and religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public.

**SIGN - ON-PREMISE:** A sign which is used to advertise a function, business, or activity that is active on the property on which the sign is located.

**SIGN – ON-PREMISE, BUILDING MOUNTED:** A sign which is attached parallel to or painted on and supported by an outside wall of a building and is used to advertise a function, business, or activity that is active on the property on which the sign is located.

**SIGN – ON-PREMISE, FREE STANDING:** A sign wholly supported by a sign structure in the ground which is used to advertise a function, business, or activity that is active on the property on which the sign is located.

**SIGN – TEMPORARY:** Any sign intended to be displayed for a limited period of time and not permanently mounted to the ground.

**SLAUGHTERHOUSE:** A building maintained for the purpose of slaughtering any animals to be held, exposed for sale, or offered for sale for human consumption.

**SMOKE:** To inhale, exhale, burn or carry any lighted or heated device or pipe or any other lighted or heated cannabis or tobacco products intended for inhalation, whether natural or synthetic, in any manner or in any form.

**SOLAR FACILITY:** An area of land used for converting sunlight into electricity including the necessary equipment for generating electricity, which shall include Photovoltaics, and may also include charge regulators; inverters; associated fencing, landscaping, parking lots, and PV support structures (which may include buildings); and, where permitted by these regulations, electrical substations and Battery Energy Storage Facilities.

**SOLAR FACILITY AREA:** The total area of land (calculated in acres) encompassed by a Solar Facility. For Small-Scale Solar Facilities, the Solar Facility Area shall be the total area encompassed by Photovoltaics and associated battery cells and equipment cabinets. For Medium-Scale and Utility-Scale Solar Facilities, the Solar Facility Area shall be the sum total of the area designated within the associated special use permit application or development plan provided by the developer.

**SOLAR FACILITY, SMALL-SCALE:** A Solar Facility located on a Solar Facility Area of less than one acre. A facility of this size is typically equivalent to a rated capacity of ten kilowatts (kW) to less than 250 kW alternating current. Such facilities are used to reduce onsite consumption of utility power.

**SOLAR FACILITY, MEDIUM-SCALE:** A Solar Facility with a Solar Facility Area of between one to ten acres. A facility of this size is typically equivalent to a rated capacity of 250 kW to less than two megawatts (MW) alternating current. Such facilities are primarily used to reduce onsite consumption of utility power for commercial and industrial applications but may also be used to provide electricity to a utility provider.

**SOLAR PANELS:** A device that collects energy from the sun and converts it to produce electricity or other forms of energy

**SOLAR FACILITY, UTILITY-SCALE:** A Solar Facility located on a Solar Facility Area of more than ten acres. A facility of this size is typically equivalent to a rated capacity of two megawatts (MW) alternating current or greater. Such facilities are used to provide electricity to a utility provider.

**SOLAR PHOTOVOLTAICS PANEL COVERAGE:** The total acres covered by groupings of photovoltaic panels (referred to as “PV pods”) including spaces between panels but excluding driveways, wildlife corridors, required setbacks, wetlands, and the like. The phrase “Solar Photovoltaics Panel Coverage” shall be interchangeable with “Solar PV Panel Coverage”.

**SPECIAL USE:** A land use permitted that allows a property or parcel of land to be used in a manner that deviates from the permitted uses allowed in that zoning district. See Article 26.

**SPECIFIED ANATOMICAL AREAS:** Includes any of the following:

- a. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, vulva, or female breasts below a point immediately above the top of areolae; and/or
- b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES:** Includes any of the following:

- a. The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, vulva, or female breasts; or
- b. Sex acts, actual or simulated including sexual intercourse, oral copulation, or sodomy; or
- c. Human masturbation, actual or simulated; or
- d. Human genitals in a state of sexual stimulation, arousal, or tumescence; or
- e. Excretory functions as part of or in connection with any of the activities set forth in this subsection.

**STABLE:** A building in which domesticated animals are sheltered or fed.

**STORAGE UNITS:** A building or buildings which are commercially rented or leased to the general public for the purpose of storing personal property.

**STORY:** That portion of a building included between the upper surface of any floor and the upper surface of the next floor above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above.

**STREET:** That portion of a public right-of-way or private thoroughfare intended for vehicular use.

**STRUCTURAL ALTERATION:** Any change in the supporting members of a building such as bearing walls or partitions, columns, beams, or girders, or any substantial change in the roof or exterior walls.

**STRUCTURE:** Anything constructed or erected which requires permanent location on the ground or which is attached to something having a permanent location on the ground – includes manufactured homes, advertising signs, and billboards but does not include travel trailers, tents, or motor vehicles.

**TRAVEL TRAILER:** (see recreational vehicle)

**TRAVEL TRAILER PARK:** (see recreational vehicle park)

**UNPROCESSED CANNABIS:** Unaltered from an original, raw or natural state.

**USE:** The purpose or activity for which a parcel of land and/or a building are intended to be used based on the zoning district.

**USE, ACCESSORY:** A subordinate use which is clearly and customarily incidental to the principal use of a building or premises and which is located on the same lot as the principal use or building.

**USE, PERMITTED:** The use of a building or premises which complies with all of the applicable use regulations of the zoning district in which said building or premises is located.

**USE, PRINCIPAL:** The primary use of a building or the parcel of land as permitted in that zoning district.

**USE, TEMPORARY:** A use established for a fixed period of time with the intent to discontinue such use upon the expiration of such time.

**VALUE, APPRAISAL:** Is an evaluation of a property's value based on a given point in time by a professional appraiser.

**VALUE, LAND:** Is the value of a piece of property including both the value of the land itself as well as improvements that have been made to it.

**VALUE, MARKET:** Is the price that a willing buyer would pay a willing seller for the home in an open market.

**VERTICALLY INTEGRATED CANNABIS ESTABLISHMENT:** A person that is authorized to act as any of the following: a cannabis courier; a cannabis manufacturer, a cannabis producer; and a cannabis retailer.

**WAREHOUSE:** A building used for the temporary storage of merchandise or commodities.

**WIND ENERGY CONVERSION SYSTEMS (WECS):** An electricity generating facility consisting of one or more Commercial Wind Turbines under common ownership, operation, or control, and includes related on-site structures such as substations, MET Towers, cables/wires and other buildings accessory to such facility, whose main purpose is to supply electricity to off-site customers(s), but does not include the High-Voltage Transmission Line(s) (electrical lines of 230 kV or greater) used for the transmission and distribution of the generated electricity or Private Wind Turbines.

**WIRELESS COMMUNICATIONS FACILITY:** (WCF) Is unstaffed facility that transmits and receives radio frequency, microwave, or other signals for commercial communications purposes, including and typically consisting of antennas, equipment shelters or cabinet, transmission cables, a support structure required to achieve the necessary elevation, and reception and transmission devices and antennas.

**WIRELESS TOWER:** "Telecommunication Tower" is a structure, including but not limited to a freestanding mast, pole, monopole, guyed tower, lattice tower, freestanding tower or other structure, designed and constructed for the primary purpose of supporting any Federal Communications Commission licensed or authorized wireless telecommunications facility antennas and their associated facilities.

**WORKFORCE CAMP:** Lodging in a barracks or dormitory style setting, where the entire facility is designed, constructed and managed by an entity, and is established for a specified period of time and subject to specific operational and other requirements.

**YARD:** An open space that is unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided by this Ordinance. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of a rear yard, the mean distance between the lot line and the main building shall be used.

**YARD, FRONT:** The open space of a lot that lies between the side lot lines and between the front property line and the main building on the lot.

**YARD, REAR:** The open space that lies between the side lot lines and between the rear property line and the main building on the lot.

**YARD, SIDE:** The open space that lies between the side lot line and the main building on the lot.

**YURT:** A type of round structure with a wooden frame.

**ARTICLE 4**  
**GENERAL PROVISIONS AND SUPPLEMENTAL REGULATIONS**

**Section 4.1 EFFECT OF ESTABLISHMENT OF DISTRICTS**

1. All property except that property owned or controlled by the Federal Government, the State of New Mexico, the County of Chaves, and the City of Roswell, and their subdivisions or agencies, is governed according to the zone in which it is located. Any use not designated in a permissive or special use in a zone is specifically prohibited from that zone, except as otherwise provided herein.
2. No land shall be used, or occupied, and no building, structure, or part thereof shall be erected, constructed, enlarged, altered, moved, or used in any district, as shown on the zoning maps or described in this Ordinance, except in conformity with the regulations established by this Ordinance for the district or zone in which it is located.
3. No building shall be erected, constructed, enlarged, or altered to exceed the height, number of stories, size, or density of population, occupy a greater percentage of land area, have smaller front, rear or side yards, or open space, than is specified for the district or zone. Such building, structure, or land for trade, industry, residential, or other purposes shall be in conformity with the regulations of the district or zone in which the land, building, or structure is located.
4. **Zoning and District Boundaries** The boundaries of the zoning districts, as described in this Ordinance, are shown on the Zoning Maps which are hereby designated as an integral part of this Ordinance and have the same force and effect as if fully described herein. Said maps are properly attested and are on file with the County Clerk of Chaves County, New Mexico.
  - a. Where district boundaries are indicated as approximately following street or alley centerlines or right-of-way lines, such lines shall be construed to be district boundaries.
  - b. Where district boundaries are indicated as approximately parallel to street or alley centerlines or right-of-way lines, such boundaries shall be construed as being parallel thereto and at such a distance there from as indicated on the Zoning Maps. In the absence of a dimension, the scale of the Zoning Maps shall be determined.
  - c. Where district boundaries are indicated as approximately following lot lines, section lines, or other legal subdivision lines, such lines shall be construed to be said boundaries.
  - d. Where a district boundary is indicated as an extension of any street or alley or lot line, the boundary shall be construed to be of the same course and bearing as the line extended.
  - e. Any area indicated on the Zoning Maps as school, park, cemetery, right-of-way, or watercourse shall be subject to the applicable regulations of the zone in which it is located, or if it is not in a district, regulations of the most restricted adjoining district shall apply.
  - f. Whenever any street or alley is vacated in the manner authorized by law, the zoning district adjoining on each side of such street or alley shall be automatically extended to the center of such vacation, or as the vacation directs, if different.

- g. Any design for subdivision of zoned land shall reflect the zoning for the district in which it is located or be accompanied by an application for a change of zoning to reflect the intended use of the land.
- h. Any application for change of zoning of un-platted land shall be accompanied by a plat delineating the boundaries of each tract included in the area subject to the proposed change of zoning.

## **Section 4.2 SUPPLEMENTAL REGULATIONS**

### **1. Floodways and Flood Control Structures**

- a. In order to protect persons and property from periodic flooding and to preserve the location, character, and extent of natural drainage courses, as well as existing or proposed flood control structures, floodways, etc., land subject to flooding and land deemed to be topographically unsuitable for building or for other reasons uninhabitable shall not be used for residential occupancy, nor for such other uses as may increase danger to health, safety or the general welfare or aggravate erosion or flood hazard.
- b. Development shall not be permitted on the site of existing or proposed flood control structures and floodways, or otherwise interfere with flood control plans as set forth in the "Master Plan for Flood Control and Storm Drainage in Chaves County and the City of Roswell, New Mexico," and other flood control plans set forth by the Chaves County Flood Commissioner and approved by the Board of Chaves County Commissioners. These flood control structures and floodways include but are not limited to reservoirs, dams, diversions ditches or channels, dikes, spillway channels, and flood plains subject to the runoff generated by a one hundred (100) year return period storm.
- c. Landfills are not allowed in Special Flood Hazard Area, as determined by the latest FIRM maps, unless the New Mexico Environment Department (NMED) approves.

### **2. Contamination of Ground Waters Prohibited** All uses in all areas are prohibited from any activities which cause pollution or contamination of ground waters, unless authorized by the Authority and the NMED.

### **3. Waste Disposal**

- a. The disposal of hazardous materials and/or waste is strictly prohibited in all zones, except as authorized by the New Mexico Environmental Department and the Authority.
- b. Solid waste such as but not limited to shall be disposed of only in a NMED permitted landfill or County approved transfer stations Disposal of solid waste along road rights-of-way, water courses, personal landfills or other unauthorized areas is strictly prohibited.

### **4. Zoning District or Land Use Areas:** Proposed subdivisions in the Extraterritorial Zone shall have their zoning district or land use areas assigned by the Commission during a public hearing prior to any final approval of the plat by the Roswell Planning and Zoning Commission and/or the Chaves County Planning and Zoning Commission. After the Commission approves the zoning, the Roswell City Council and/or the Board of Chaves County Commissioners may then take action on the final plat of the proposed subdivision.

5. **Road Setback Requirements-All Zones** In order to make adequate provision for transportation, water, sewage, and other utilities, and to assure that land be available when required, for widening of county roads. Utility companies who wish to place their lines or other facilities within existing County road right-of-way, shall first obtain a permit from the Chaves County Board of Commissioners which shall contain, among other things, a statement that if the Board finds it necessary to widen a county road, the applicant agrees to move their lines and equipment as required, at their own expense, after receiving a ninety (90) day advance notice.
6. **Minimum Lot Sizes:** Minimum lots size shall be five (5) acres, except in the Flight Zone Overlay District where the minimum lot size shall be ten (10) acres.
7. **Lot Sizes in ETZ:** Minimum lot sizes in the Extraterritorial Zone are five (5) acres unless at the time of adoption of this Ordinance in 1980, a parcel contained at least five and three quarters (5 3/4) but not more than ten (10) acres. These parcels may be divided, one time only, to create one five (5) acre parcel and one parcel of less than 5 acres as long as the smallest parcel meets the minimum land area requirement set by New Mexico Environment D for an individual septic system.
8. **Restrictions**
  - a. There shall be no commercial swine operations or wind energy conversion systems within the Extraterritorial area.
  - b. In all zoning districts a principal use shall be established prior to an accessory structure or use being permitted, except when a building permit is issued for both the principal and accessory structure, on the same application. Building permit fees shall be required for all structures listed on the application.
  - c. The use of recreational vehicles as a residential dwelling unit shall not be permit, except where otherwise provided in this ordinance. Violation of this restriction shall result in the property owner and/or the recreational vehicle occupant being cited.
  - d. Guesthouses and bunk houses shall not be permitted on a parcel of land or group of lots when combined, that are less than one and half (1½) acres in size.
  - e. Guesthouses are intended for temporary lodging of family members or guests for no more than two hundred (200) days in a calendar year. Guesthouses shall not be for rent, lease, or sale and will not be assigned a separate rural address from the principal residence dwelling.
  - f. A zoning permit from the Department shall be required for home burial sites. The site shall be a minimum of fifty (50') feet from a known water source, twenty-five (25') from any property line, one hundred (100') feet from any dwelling unit and shall be accessible from a maintained road. The burial site shall be recorded as an addendum to the deed of the property, in the Chaves County Clerk's office. The gravel shall be six feet deep, four feet wide and nine feet long.
9. **Development Plan Standards for Office-Professional, Commercial and Industrial Districts**
  - a. All construction shall comply with the latest New Mexico Commercial Building Code, NM Electrical Code and NM Plumbing and Mechanical Codes.
  - b. All development shall comply with New Mexico Environmental Department and the Office of the State Engineer regulations.

- c. Address signs, being 4 inches or greater in size, shall be located on the building and shall be visible from the road.
- d. Driveways along State, County or City maintained roads shall require an Access Permit from said government agency. All driveways shall be constructed as required by the government agency.
- e. Setback and lot size requirements- See Article 17, 20 & 21
- f. Off-Street Parking requirements - See Article 23
- g. Landscaping requirements- See Article 18
- h. Flood Hazard requirements- See Article 16
- i. On-premises signs. No more than two (2) signs shall be permitted for each use and maybe either a free standing or a building mounted sign. Signs shall not be located so as to create or potentially create a traffic or safety hazard as determined by the Code Enforcement Officer.
- j. Six-foot screen fence enclosure shall be required for all outdoor storage of equipment, supplies or machinery.
- k. All lighting on the property shall comply the New Mexico Night Sky Act and shall be enforced as part of the electrical permit.
- l. Properties shall not be a public nuisance to the community with rubbish, debris, waste and abandoned vehicles and/or structures.

**ARTICLE 5  
ZONING DISTRICTS**

**Section 5.1 ESTABLISHMENT OF ZONING DISTRICTS**

1. For the purpose of this Ordinance, the Roswell-Chaves County Extraterritorial Zone, which is the area within the two-mile Extraterritorial limits of the City of Roswell, is divided into the following districts:

- |     |                                 |
|-----|---------------------------------|
| R-1 | SINGLE FAMILY RESIDENTIAL       |
| R-2 | TWO FAMILY (DUPLEX) RESIDENTIAL |
| R-3 | MULTIPLE FAMILY RESIDENTIAL     |
| R-S | RURAL-SUBURBAN                  |
| O-1 | OFFICES-PROFESSIONAL            |
| C-1 | COMMERCIAL                      |
| I-1 | INDUSTRIAL                      |
| PUD | PLANNED UNIT DEVELOPMENT        |

**2. OVERLAY ZONING DISTRICTS**

- |     |                                |
|-----|--------------------------------|
| F-1 | FLOODPLAIN                     |
| F-2 | FLIGHT ZONE                    |
| L-1 | ARTERIAL OVERLAY (LANDSCAPING) |
| S-1 | OUTDOOR ADVERTISING (SIGNS)    |

## ARTICLE 6

### R-1 SINGLE FAMILY RESIDENTIAL DWELLING DISTRICT

**Section 6.1.** The regulations set forth in this article are "R-1" Single Family Residential District regulations. One primary residential dwelling unit per lot, parcel or tract of land.

**Section 6.2.** Permitted Uses:

#### 1. Principal Use

- a. Single family dwelling unit including a manufactured home
- b. Religious Institutions
- c. Publicly owned or operated parks or playgrounds
- d. Public schools, elementary and secondary, and educational institutions having a curriculum the same as ordinarily given in public schools
- e. Golf courses, except commercially run miniature courses, driving ranges, and putting greens
- f. Temporary real estate sales offices for use in conjunction with the development of a residential subdivision in any residential district; provided use of the sales office shall be discontinued upon completion of the development in which the office is located or upon discontinuance of the development activity for a period of one (1) year.
- g. Farming and Ranching (a parcel or adjoining lots with a subdivision, combined, shall be no less than two (2) acres in size)

#### 2. Accessory Structures or Use

- a. Home occupations
- b. Day care homes, Family
- c. Accessory structures for use customarily incidental to the principal use. Any accessory structure that is not a part of the main structure shall be in compliance with yard restrictions provided herein.
- d. One accessory dwelling unit (800 sq.ft.) constructed to either NM Residential Building Code or HUD Code standards. (See Section 4.2.8).
- e. Storage (shipping) containers with a Placement Permit. (Modifications to a container shall require stamped plans from a licensed NM Engineer- per NMCID).
- f. Solar Facility-Small Scale.
- g. Temporary signs not exceeding six (6) square feet in area.
- h. Accessory use- Storage of RV, boat, and utility trailers. Temporary occupation of no more than one RV, having a maximum stay of thirty (30) days within a calendar year.

## ARTICLE 7

### R-2 TWO FAMILY (DUPLEX) RESIDENTIAL DWELLING DISTRICT

**Section 7.1.** The regulations set forth in this article are the "R-2" Two Family Dwelling District regulations. A duplex structure shall be limited to a total of six bedrooms and shall have only one septic unit per lot, tract or parcel of land. The modification and/or attachment of two manufactured houses together shall not be permitted.

**Section 7.2.** Permitted Uses:

**1. Principal Use**

- a. Any use permitted in the R-1 Single Family Residential Dwelling district.
- b. A duplex.

**2. Accessory Structure or Use**

- a. Any accessory structure or use permitted in the "R-1" District with the exception of an accessory dwelling unit.

**Area, height, and setback requirements are set forth in Articles 20 and 21.**

## ARTICLE 8

### R-3 MULTIPLE FAMILY RESIDENTIAL DWELLING DISTRICT

**Section 8.1.** The regulations set forth in this article are the "R-3" Multiple Family Residential Dwelling District regulations. A multi-family dwelling structure shall be limited to a total of six bedrooms and shall have only one septic unit per lot, tract or parcel of land. The modification and/or attachment of two or more manufactured houses together shall not be permitted.

**Section 8.2.** Permitted Uses:

**1. Principal Use**

- a. Any use permitted in the "R-2" Two Family (Duplex) Residential Dwelling district.
- b. Boarding and lodging houses.
- c. Multiple family dwellings.
- d. Non-profit religious, educational, and philanthropic institutions, excluding penal, or alcoholic treatment centers.
- e. Nursing homes.
- f. Townhouses.

**2. Accessory Structure or Use**

- a. Any accessory structure or use permitted in the "R-2" District
- b. Day Care; Group

**Area, height, and setback requirements are set forth in Articles 20 and 21.**

**ARTICLE 9  
RESERVED**

**ARTICLE 10  
RESERVED**

## ARTICLE 11

### R-S RURAL SUBURBAN DISTRICT

**Section 11.1.** The regulations set forth in this article are the "R-S" Rural Suburban District regulations. The R-S Rural Suburban District or Land Use is intended to accommodate single family dwellings and is designed to protect and maintain a character of development with lots having a minimum area of five acres, and with no more than one dwelling unit and permitted accessory buildings on one lot.

#### **Section 11.2. Permitted Uses:**

##### **1. Principal Use**

- a. Single family dwelling, including manufactured homes
- b. Farming and ranching
- c. Parks, playgrounds, golf courses, and recreational uses, except miniature golf courses or commercial practice driving tees
- d. Religious Institutions.
- e. Public elementary and high schools, or private schools with curriculum the same as ordinarily given in public elementary and high schools
- g. State-licensed or state-operated community residences for the mentally ill or developmentally disabled serving ten (10) or fewer persons. (3-21-1.C. NMSA)

##### **2. Accessory Structure or Use**

- a. Home occupations
- b. Accessory buildings or structures for use for personal garage or storage, recreation, or for farming and ranching.
- c. Adult Day Care Home
- d. One accessory dwelling unit (800 sq.ft.) constructed to either NM Residential Building Code or HUD Code standards. (See Section 4.2.8)
- e. Day care homes, Family
- f. Directional signs and temporary signs Temporary signs are limited to 32 square feet in size. No more than one (1) sign is permitted for every one-quarter mile of roadway frontage. Signs shall not be located so as to create or potentially create a traffic or safety hazard.
- g. Temporary occupation of no more than one RV, having a maximum stay of thirty (30) days within a single calendar year.
- h. Nurseries, truck gardening, greenhouses
- i. Storage (shipping) containers with a Placement Permit. (Modifications to a container shall require stamped plans signed by a NM engineer-per NMCID)
- j. Solar Facility-Small Scale

**ARTICLE 12**  
**O-1 OFFICES-PROFESSIONAL DISTRICT**

**Section 12.1.** The regulations set forth in this article are the "O-1" Office-Professional District regulations.

**Section 12.2. Permitted Uses:**

**1. Principal Use**

- a. Accounting
  - 1. accountants, auditors, tax experts
  - 2. credit services
- b. Engineering
  - 1. geologists, geophysicists, architects, engineers, surveyors
- c. Insurance offices
- d. Lawyers
- e. Medical Clinics
  - 1. doctors, nurses, dentists, optometrists, chiropractors, oculists
  - 2. laboratory technicians and laboratories but excluding outdoor living facilities for animals
- f. Animal Grooming; No overnight boarding of animals.
- g. Music and art
  - 1. musicians, dancing studios, dramatic studios
  - 2. artists, authors, poets
- h. Photography studios
- i. Public typists, consulting services, clergymen
- j. Real estate offices
  - 1. salesman, appraisers, brokers
  - 2. escrow and/or title company office

**2. Accessory Structure**

- a. Accessory structure for storage or parking; not to exceed six (600) hundred square feet in area.
- b. Solar Facility-Small Scale

## ARTICLE 13

### C-1 COMMERCIAL DISTRICT

**Section 13.1.** The regulations set forth in this article are "C-1" Commercial District regulations.

**Section 13.2. Permitted Uses:**

1. Any use permitted in "O-1" Offices - Professional District
2. Adult Day Care Center
3. Automobile sales and service/repair and filling stations
4. Bakeries, Catering, Restaurants
5. Banks and financial institutions
6. Barber and beauty shops
7. Billboards- only in the S-1 Outdoor Advertising Overlay District
8. Business and commercial schools.
9. Cemetery
10. Clothing repair, tailors, shoe repair, millinery, cleaners
11. Cold storage lockers, meat processing being incidental thereto
12. Commercial parking lots and garages
13. Commercial recreation facilities; pool, bowling, theaters, games, miniature golf
14. Commercial service companies; plumbing, electrical, HVAC, septic
15. Commercial mobile food vendors
16. Day care centers
17. Florists
18. Hotels, motels, boarding house
19. Hospitals
20. Kennels veterinary hospitals, and animal clinics
21. Mortuaries and crematories
22. Paint and decorator stores
23. Photography and artists supply stores
24. Plumbing shops
25. Recreational vehicle parks
26. Retail sales
27. Small appliance repair shops
28. Sign shops, excluding construction and storage of billboards
29. Sheet metal shops
30. Tattoo parlors, piercing shops, massage parlors (adult content activity, licensed by the State of NM with limited operational times of 9:00 am to 9:00 pm.)
31. Wireless Communication Facility
32. Workforce Camps
33. Similar type uses as indicated above as approved by the Commission.
34. One accessory dwelling unit for only one family may be allowed on each lot and may not be for sale or lease separated from the principal use or for use involving the conduct of a business
35. On-premises signs no more than two (2) signs are permitted for each use, free standing or building mounted. Signs shall not be located so as to create or potentially create a traffic or safety hazard. Abandoned signs must be repaired or removed by the property owner.

## ARTICLE 14

### I-1 INDUSTRIAL DISTRICT

**Section 14.1.** The regulations set forth in this article are the "I-1" Industrial District regulations. A building or premises shall only be used for the following purposes as approved by the Commission and is subject to such conditions and restrictions as the Commission may impose. The Planning Director may administratively approve and amend an approved change of use, including conditions of approval, upon determining a proposed change of use is of equal or lesser impact. Uses determined to not meet said criteria shall be subject to a Change of Use application and review and approval by the Commission.

**Section 14.2. Permitted Uses:**

1. Any use permitted in C-1 Commercial District
2. Bottling works
3. Billboards, only in the S-1 Outdoor Advertising Overlay District
4. Battery Energy Storage System (BESS facility)
5. Cannabis Establishments
6. Food processing and canning
7. Foundry of lightweight nonferrous metal, excluding brass, manganese, bronze, zinc
8. Grain elevators, cotton gins, compressors, feed processing, and storage
9. Heavy vehicle temporary parking/storage
10. Iron works
11. Junkyards, automobile graveyards, scrap metal yards, and recycling operations
12. Lumber yards and construction yards
13. Machinery sales and service:
  - a. farm equipment;
  - b. oil well drilling equipment;
  - c. diesel tractor and trailer.
  - d. water well drilling
14. Manufacture and assembly
15. Paint mixing and treatment
16. Parcel delivery services
17. Sales and service of gas/oil mineral related equipment
18. Sanitary landfills, solid waste disposal
19. Sexually Oriented Business/ Adult Entertainment Facility
20. Solar Facility- Medium or Utility Scale
21. Storage of gas/oil mineral production related materials
22. Storage of petroleum products
23. Tire retreading or rebuilding
24. Warehouses and outside storage
25. Wholesale distribution centers

## ARTICLE 15

### PUD- PLANNED UNIT DEVELOPMENT DISTRICT

#### Section 15.1. PURPOSE

To provide a more creative and imaginative design of land developments than is possible under district zoning regulations while simultaneously providing a compatible and stable environment in harmony with and at substantially the same population density and area coverage as the surrounding area.

#### Section 15.2. PERMITTED USES

1. Any use or combination of uses allowed in the zoning districts established by this Ordinance in accordance with the procedures, requirements, and standards set forth in this article.
2. Residential PUDs may be allowed in any residential zoning district provided that the ultimate development density is not more than the development density of the respective residential zone.
3. Commercial and Industrial PUDs may be allowed in any commercial or industrial zoning district.

#### Section 15.3. APPLICATION PROCEDURE

1. All PUDs shall be preceded by an informal pre-application conference. The pre-application conference is intended to provide general advice to the applicant about the procedures and data requirements for PUD review and approval in the County. Documents required for the pre-application conference include:
  - a. a sketch of the proposed plan of development.
  - b. name of owner or owners of land within the PUD.
  - c. a description of surrounding land uses.
  - d. location of existing utilities, roads, and water courses within 300 feet of the boundaries of the PUD.
2. All requests for planned unit developments shall follow the same application procedures as any other zoning request.

#### Section 15.4. APPEAL

Appeals must follow the guidelines of Section 2.1 of this Ordinance.

#### Section 15.5. REQUIRED DOCUMENTS

A survey map and supporting documentation shall be submitted with the application for a zoning change to PUD. A survey map shall have all of the following minimum information:

1. A survey map shall have all of the following minimum information:
  - a. vicinity map.

- b. title, scale, north arrow, and date.
  - c. all property boundary lines, with bearings and distances.
  - d. proposed lot lines, with dimensions and lot and block numbers, and acreage of each lot.
  - e. the location, dimensions, and purpose of existing and proposed easements.
  - f. names and right-of-way widths of existing and proposed roads on and adjacent to the land within the PUD.
  - g. existing and proposed utilities on and adjacent to the site.
  - h. locations, dimensions, and purpose of any land to be dedicated to public use, including any improvements to be made to that land.
  - i. delineation, if applicable, of any 100-year flood plain as designated by the Federal Emergency Management Agency.
  - j. legal description of record including the section, township, and range within which the subdivision is located.
  - k. names and addresses of all persons owning property within 100 feet of the boundaries of the proposed PUD.
2. Supporting documentation, at a minimum, shall include:
- a. site plan showing building footprints and pad elevations.
  - b. water supply plan.
  - c. liquid waste disposal plan and soils report.
  - d. solid waste disposal plan.
  - e. traffic plan.
  - f. terrain management plan.
  - g. applicant's policies regarding open spaces.
  - h. any proposed commercial or industrial areas and the criteria used to determine the size and location of these areas.
  - i. any proposed covenants, conditions, or restrictions to be used within the PUD.
3. Additional information may sometimes be required by County Staff when deemed necessary to properly assess the request for a PUD.

## **Section 15.6. DEVELOPMENT STANDARDS**

1. Construction of structures, facilities, and infrastructure within an approved PUD shall comply with the following standards:
  - a. **Ownership:** The tract shall be under unified ownership or control at the time of application and shall be planned as a whole. If the tract is not to be developed as a whole, a phasing schedule shall be provided showing the chronological order in which portions of the tract are to be developed.
  - b. **Chaves County Comprehensive Plan:** The proposed PUD shall be consistent with the County Comprehensive Plan in terms of land use and density.
  - c. **Lot Area Regulations:** A proposed residential PUD or a residential PUD mixed with commercial and/or industrial uses shall be at least five (5) acres in size. A proposed commercial and/or industrial PUD shall be at least two (2) acres in size.

- d. **Density:** For residential PUDs, the total number of dwelling units shall be determined by either the density standard of the original zoning district or the density standard recommended by the County Comprehensive Plan and shall apply to the project as a whole rather than to its individual lots. Densities are calculated on a project-wide basis, permitting, among other things, the clustering of houses with provisions for common open space.
  - e. **Setback Regulations:** Building setbacks may vary from those of the zoning district in which the PUD is planned as long as the proposed PUD does not adversely affect surrounding property values and will blend well with adjacent developments.
  - f. **Height Regulations:** Heights of buildings and structures shall match the height requirements of the original zoning district within which the PUD is being proposed.
  - g. **Open Space:** Sufficient open space shall be provided to meet requirements for zoning district density. The open space shall be commonly available to all uses within the PUD and be landscaped to present an aesthetically pleasing environment consistent with the original zoning district.
  - h. **Streets, Utilities, Services:** The specifications and standards for streets, utilities, and services may vary from those normally required in this Ordinance as long as modifications will not adversely affect surrounding property values or the public health and welfare.
  - i. **Off-Street Parking:** All PUDs shall provide off-street parking areas according to the zoning district within which the PUD is being proposed.
  - j. **Water supply:** The water supply system for the PUD must comply with State Engineer regulations.
  - k. **Liquid waste:** Liquid waste disposal systems must comply with New Mexico Environment Department regulations.
  - l. **Drainage:** Drainage plans must protect against flooding, inadequate drainage, and erosion. Post-development stormwater runoff velocities and locations must not differ from pre-development conditions.
  - m. **Buffers:** When commercial and/or industrial PUDs are proposed, solid fences and fifteen (15) foot buffer setbacks are required in accordance with the additional height, area, and use regulations established by this Ordinance.
  - n. **Traffic:** Roads, driveways, and parking areas developed within the PUD must be adequate to service the lots within the development and provide safe ingress and egress to County roads. The County will determine what improvements, if any, to the existing County Road system will be necessary to properly serve the PUD.
2. Development standards may vary if it can be demonstrated by the applicant that such modification of specifications and standards will not adversely affect the interests of the general public or the County.

## **Section 15.7. CONSTRUCTION**

1. Prior to any construction, building permits must be obtained from the County Building Inspector.

2. Any deviation from the approved PUD submittal must be resubmitted to the Commission for approval.

**ARTICLE 16**

**RESERVED**

**SEE THE LATEST CHAVES COUNTY FLOOD DAMAGE PREVENTION ORDINANCE**

**ARTICLE 17**  
**F-2 FLIGHT ZONE OVERLAY DISTRICT**

**Section 17.1. PURPOSE**

Recognizing the economic importance of the Roswell International Air Center (RIAC) to the citizens of Chaves County, the purpose and intent of the regulations adopted pursuant to this Ordinance shall be to encourage land use patterns for local needs that will separate uncontrollable noise sources from noise sensitive areas and to facilitate the orderly development of areas around airports, while protecting their continued existence, by establishing regulations that must be met before such development will be permitted.

**Section 17.2. USE REGULATIONS**

The DNL Flight Zone areas are determined by the latest City of Roswell's Industrial Air Center Comprehensive Master Plan. Residential use shall not be permitted in DNL Zones as per the Federal Aviation Administration recommendation.

1. DNL Zones:
  - a. " **DNL Zone 4**" is a designated area within which the noise rating is greater than 75 DNL.
  - b. " **DNL Zone 3**" is a designated area within which the noise rating includes 70 and 75 DNL.
  - c. "**DNL Zone 2**" is a designated area within which the noise rating includes 65 and 70 DNL.
2. Height Restrictions: Maximum height for all other structures shall be forty (40) feet.

**ARTICLE 18**  
**L-1 ARTERIAL OVERLAY DISTRICT**

**Section 18.1. PURPOSE**

1. To promote and preserve visually attractive and pleasing surroundings, reduce water erosion and runoff, and improve the development and protect the environment.
2. To provide a landscaping standard for all new construction of buildings, structures, or parking lots hereinafter erected or constructed, and for all changes of use or zoning hereinafter applied for in the Arterial Overlay District.

**Section 18.2. DISTRICT REGULATIONS**

1. Minimum site landscaping and required planting areas shall be installed in accordance with the standards and requirements of this article, which shall apply to all projects including construction, and exterior alteration, in the O-1, C-1, and I-1 zoning districts which fall within the Arterial Overlay District.
2. Requirements of the Arterial Overlay District shall apply to any property within the district of the Roswell-Chaves County Extraterritorial Zone and located adjacent to the right-of-way of the following roads: US 70, US 285, US 380, South Main, Sunset Ave., State Road 2- Yakima, or the Roswell US 285-West Relief Route.

**Section 18.3. GENERAL REQUIREMENTS**

**1. Permitting**

- a. Applications for building permits, special use permits and zoning changes shall include plans and written material showing how applicable sites, landscaping or planting area requirements are to be met and shall be approved by the Department prior to the issuance of building permits.
- b. All required landscaping shall be maintained and irrigated.
- c. Any changes to an approved landscape or irrigation plan shall be approved by the Director prior to the issuance of a certificate of occupancy.

**2. Size and Location**

Landscaping shall be provided by buffer strips located adjacent to the street and between the street and the parking lot, structure, or use (see sketches), in accordance with the following minimum requirements:

- a. The buffer landscaping strip shall be a minimum of seven (7) feet in width; and
- b. Buffer strips shall be clearly visible from the adjacent streets; and
- c. Landscaping materials shall not be located such that, at maturity, they interfere with safe-sight distances for vehicular traffic or conflict with overhead utility lines or overhead lights.

### 3. **Materials**

- a. Plant materials shall be selected for: energy efficiency and drought tolerance; adaptability and relationship to the Chaves County environment; color, form, and pattern; ability to provide shade; soil retention; etc.; and
- b. Trees shall be included in each landscaping scheme and shall be planted a maximum of 40 feet apart. Deciduous trees shall be at least five (5) feet in height and 1 1/2" in caliper and coniferous trees at least four (4) feet in height, at the time of planting. All lots shall have at least two (2) trees in the landscaped area; and
- c. Shrubs shall be not less than one foot in height at the time of planting. Where shrubs, low-level vegetation, or desert landscaping plants are used, vegetative matter shall cover, at the time of planting, at least 30% of the required planting area. Any area not covered by vegetation shall be mulched; and
- d. Where grass is used, vegetative matter shall cover, at the time of planting, 50% of the planting area; and
- e. Where vines are used, vegetative matter shall cover, at time of planting, 50% of the planting area; and
- f. Non-turf areas, such as shrub beds, shall be top dressed in a bark chip mulch or approved alternative; and
- g. Crushed rock or gravel may be used where planting materials are exclusively desert type plants.

### 4. **Maintenance**

- a. Required planting areas shall be permanently maintained, which include watering, weeding, mowing, pruning, insect control, and replacement of plant materials and irrigation equipment as needed to preserve the health and appearance of plant materials; and
- b. It shall be the responsibility of the owner to replace dead plant material, mulch, gravel, and faulty irrigation systems whether or not the negligence to or damage of the landscaped area was the cause of the owner. This replacement shall occur within 6 months of written notice to perform such a replacement.

**(See APPENDIX B for sample plot plans)**

## ARTICLE 19

### S-1 OUTDOOR ADVERTISING OVERLAY DISTRICT

#### Section 19.1. PURPOSE

1. To encourage the effective use of billboards as a means of communication while maintaining the aesthetic environment; and
2. To attract sources of economic development and growth; and
3. To minimize the possible adverse effect of billboards on nearby public and private property; and
4. To enable fair and consistent enforcement of this Ordinance.

#### Section 19.2. ESTABLISHMENT OF DISTRICT

Standards of the Outdoor Advertising Overlay District shall apply to land that lies outside the city limits of Roswell, within the limits of the Roswell-Chaves County Extraterritorial Zone, and within 100 feet of the right-of-way of the following roads: N. Main Street; S. Main Street; U.S.70; U.S. 285; State Road 2; U.S. 380 and Roswell Relief Route No billboards shall be constructed along any other roads other than the roads described above.

#### Section 19.3. PERMITTING

1. All billboards along state or federal highways must be permitted by the New Mexico Department of Transportation.
2. All billboards shall obtain a building and electrical permit from the Chaves County Building Official. Signs shall be permitted and constructed in accordance with the latest New Mexico Commercial Building Code and New Mexico Electrical Code.

#### Section 19.4. LOCATION

Billboards shall be located at a minimum of one thousand (1,000') feet from any other billboard on the same side of the road and a minimum of five hundred (500) feet from any intersection of two roads.

#### Section 5. 19.MAINTENANCE

Signs shall be built and maintained in good working order. Any sign determined to be abandoned in accordance with this Ordinance shall be declared a public nuisance. The owner shall make arrangements for repair or remove the sign within thirty (30) days of notification by staff.

#### Section 19.6. RESTRICTIONS

1. **Zoning.** Billboard signs shall be permitted on property zoned C-1 Commercial and/or I-1 Industrial districts.
2. **Height.** The maximum height of a billboard sign shall be forty-five (45) feet. Measured from the surrounding natural ground.

3. **Size-Area.** The maximum display area on a billboard sign shall be seven hundred (700) square feet. Cutouts and/or extensions shall not be permitted in excess of the display area permitted.
4. **Placement.** Billboard signs shall not be permitted to overhang any structure nor encroach into the public right-of-way.
5. **Type.** No digital or light-emitting diode (LED) signs shall be permitted.

#### **Section 19.7. LEGAL NON-CONFORMING**

Billboard signs that are not in compliance with this Article and exist prior to the date stated for Revision No.21 of this Ordinance, may be recognized as a legal non-conforming use. See Article 24.

**ARTICLE 20**  
**AREA AND SETBACK REQUIREMENTS**

ZONING District	MINIMUM LOT SIZE (AREA)	FRONT YARD SETBACK	REAR YARD SETBACK	SIDE YARD SETBACK	HEIGHT
R-1 Single Family Residential	Less than 1.0 acre 1 acre to 5 acres or more	25 ft 30 ft.	30 ft. 40 ft.	5 ft 10 ft.	35 ft. or 2 stories
R-2 Two Family Residential (duplex)	1 to 5 acres or more	50 ft	40 ft	10.5 ft	35 ft. or 2 stories
R-3 Multi Family Residential	1 to 5 acres or more	50 ft	40 ft	10.5 ft	35 ft. or 2 stories
O-1 Office – Professional *	2 acres	20 ft*	20 ft	0 ft*	35 ft.
C-1 Commercial *	2 acres	20 ft*	20 ft.*	0 ft*	
I-1 Industrial *	2 acres	20 ft*	20 ft.*	0 ft*	
R-S Rural Suburban	5 acres	50 ft	50 ft	20 ft	<b>35 ft. (Home)*</b>
PUD Planned Unit Development	Residential or mixed-5 ac Commercial or Ind-2 ac	See Article 15	See Article 15	See Article 15	See Article 15

**See article 21 for additional height and area requirements**

## ARTICLE 21

### ADDITIONAL HEIGHT, AREA, AND USE REGULATIONS

The following development standards shall be required, except for height restrictions in the Flight Zone Overlay District, which may be found in Article 17.

#### Section 21.1. Height

1. Public, semi-public, or public service buildings, hospitals, institutions, or schools, when permitted in a district, may be erected to a height not exceeding sixty (60) feet. Steeples or architectural features of religious institutions, amateur radio towers, chimneys, and lofts may be erected to a height not exceeding seventy five (75) feet if that part of the structure exceeding the height limit is set back from each yard line at least one (1) foot for each foot of additional building height above the height limit otherwise provided in the district in which the building is built.
2. Unless otherwise restricted in this ordinance, or as defined in Article 3 or by other ordinances, structures associated with farming and ranching located in the "R-S" Zone are not restricted.
3. Fences and walls shall not exceed eight (8) feet in height. Corner lots located at the intersection of two (2) or more streets, shall not have walls exceeding three (3) feet in height within thirty (30) feet of the road intersection, or as otherwise approved by the Commission, in order to maintain an unobstructed view for traffic.

#### Section 21.2. Area

1. Detached accessory structures in residential districts shall be located not less than sixty (60) feet from the front lot line; shall not be nearer than ten (10) feet to the main building; nearer than five (5) feet to any interior side or rear lot line; nearer than twenty (20) feet from any street side lot line; nor shall any such accessory structure (s) occupy more than thirty (30) percent of the rear yard area.
2. For subdivision lots that are one-quarter (1/4) of an acre or less in size; a detached accessory structure for storage or parking purposes may be constructed or placed on an adjacent lot that is under the same ownership as the lot(s) for which the principal use or structure is located when the lots are combined as one use in the owner's deed. Said lot(s) and accessory structure may not be sold separately from the principal use or structure associated with the accessory structure.
3. In a commercial or industrial district, the display of products for rent or sale shall not occupy more than seventy-five (75%) percent of the required front yard. Sales of manufactured homes and recreational vehicles shall be ten (10) feet apart from one another.
5. Every part of the required yard shall be open except for the ordinary projections of skylights, sills, belt courses, cornices, and ornamental features which may project not more than twelve (12) inches.
6. Open or lattice-enclosed fire escapes, fireproof outside stairways, and balconies opening upon fire towers may project into the rear yard not more than five (5) feet, and the ordinary projections of chimneys and flues may be permitted by the Code Enforcement Officer.

7. An open, attached, unenclosed porch, carport, or paved terrace may project into the required front or rear yard ten (10) feet in residential districts.
8. For the purpose of the side yard regulations, a two-family or a multiple family dwelling shall be considered as one (1) building occupying one (1) lot.

**9. Corner Lots**

- a. Corner lots shall have a minimum side yard of twenty (20) feet on the street side of the lot in all residential districts for all structures.
- b. Corner lots in an industrial or a commercial district shall have a minimum side yard of twenty-five (25) feet for all structures.

**10. Front Yard**

- a. In a commercial, industrial, or office district where the frontage on one side of the street between two intersecting streets is located partially in a residential district, the front yard setback requirement shall be twenty-five (25) feet. for all structures.
- b. Residential Planned Unit Development shall comply with the latest New Mexico Commercial or Residential Building Code and parking and subdivision criteria.

**11. Side Yard**

In a commercial or industrial district, on the side of a lot adjoining a residential district, the interior side yard shall not be less than twenty (20) feet for all structures.

**Section 21.3. Use**

1. The use and height of buildings hereafter erected, converted, enlarged, or structurally altered, and the use of any land shall be in compliance with the regulations established herein for the zoning district in which such land or building is located.
2. No lot area shall be so reduced that the yards and open spaces shall be smaller than is required by this Ordinance.
3. No part of a yard or other open space provided for any building for the purpose of complying with the provision of this Ordinance shall be included as a part of a yard or other open space required for another building.
4. Every building hereafter erected, converted, enlarged, or structurally altered shall be located on a lot of record, and in no case shall there be more than one main building on one lot, except as may be further regulated in this Ordinance.
5. When two (2) or more lots in a duly recorded subdivision, each of which lacks adequate area and dimension to qualify for permitted use under the requirements of the zoning district in which it is located, are contiguous and are held in one (1) ownership, they may be used as one (1) zoning lot for such permitted use.
6. Unobstructed vision clearance for traffic safety shall be maintained by the property owner or occupant on all lots regardless of the zoning district. This includes, but is not limited to, any buildings, signs, fences, ornaments, hedges, shrubs, trees, displays, or other obstructions, but not including existing buildings.

## ARTICLE 22

### OFF-STREET PARKING AND LOADING REQUIREMENTS

#### Section 22.1. Provisions for Parking Spaces

1. The following off-street parking spaces are required. These requirements do not include the handicap accessible parking spaces required per the NM Building Code and NM Disabled Parking Act.
  - a. Bowling alley: Two (2) plus five additional (5) parking spaces for each alley or lane.
  - b. Business, professional, or public building, studio, bank, medical, or dental clinic: Three (3) plus one additional parking space for each 400 square feet of gross floor area.
  - c. Religious institutions: Three (3) plus one (1) additional parking space for every six (6) seats located in the main auditorium.
  - d. Community center, library, museum, or art gallery: Ten (10) parking spaces plus one (1) additional space for each four hundred (400) square feet of gross- floor area
  - e. Dance hall, assembly, or exhibition hall without fixed seats: Two (2) plus one (1) parking space for each 100 square feet of gross- floor area.
  - f. Cannabis Establishments and retail sales: Two (2) parking spaces plus one (1) additional parking space for each three hundred (300) square feet of gross floor area.
  - g. Hospital: Two (2) plus one (1) additional parking space for every four (4) beds.
  - h. Hotel/motel/bed & breakfast: Two (2) plus one (1) parking space for each room or suite, plus one (1) space.
  - i. Industrial Warehouse or Storage Facility:
    1. One (1) off-street parking space for each employee.
    2. Visitor parking. Three (3) off-street parking spaces.
  - j. Private club or lodge: Two (2) plus one (1) parking space for every five (5) members
  - k. Restaurant, night club, cafe, or similar recreation or amusement establishment: Two (2) plus one (1) parking space for each one hundred (100) square feet of gross floor area
  - l. Sanitarium, nursing home, convalescent home, home for the aged, or similar institution: Two (2) plus one (1) parking space for each six (6) beds
  - m. Theater or auditorium (except school): Two (2) plus one (1) parking space for each five (5) seats or bench seating spaces
  - n. Residential districts- Two (2) parking spaces per dwelling unit.

#### Section 22.2. Rules for Computing Number of Parking Spaces

1. When a fractional number results, the parking spaces required shall be construed to be to the nearest whole number.
2. The parking space requirements for a use not specifically mentioned herein shall be the same as required for a use of similar nature as determined by the Director.

3. Whenever a building or use constructed or established after the effective date of this Ordinance is changed or enlarged in gross floor area, number of dwelling units, seating capacity, or otherwise, to create a need for an increase of ten (10%) percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use existing prior to the effective date of this Ordinance is enlarged to the extent of fifty (50) percent or more in floor area or in the area used, said building or use shall then and thereafter comply with the parking requirements set forth herein.
4. In the case of mixed or joint uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately, less than twenty percent (20%), as determined by the Director.

### **Section 22.3. Location of Parking Spaces**

All parking spaces required herein shall be located on the same lot with the principal structure or use served, except that where an increase in the number of spaces is required by a change or enlargement of use or where such additional spaces are provided collectively or used jointly by two or more structures or establishments, the required spaces may be located and maintained within the adjacent parcel.

### **Section 22.4. Loading and Unloading Space Requirements**

Any business or industrial use shall provide an adequate off-street loading and unloading space or area that is located adjacent to the building, in such a manner as not to obstruct freedom of traffic movement in the parking lot and on the public streets or alleys.

1. The loading and unloading area shall have a minimum width of twelve (12) feet, a minimum length of thirty-five (35') feet and a minimum height clearance of fifteen (15') feet.
2. The loading and unloading space shall not reduce the required off-street parking area required in Article 22.

### **Section 22.5. Construction and Maintenance of Parking Areas**

1. All open parking areas provided in compliance with this Article shall be surfaced with a durable, surface consisting of concrete, bituminous concrete, compacted gravel or crushed stone properly sealed and surface treated as approved by the Director.
2. The parking areas shall be designed, graded and drained to dispose of all surface water into on-site detention area ponds.
3. All parking spaces shall be clearly marked and shall be a minimum of nine (9) feet wide by twenty (20) feet long in size.
4. All lighting shall be shown on the Development Plan. Direct or reflected glare from all light fixtures shall not be visible from parcels located outside of the project area and from public streets. The source of lights shall be hooded or controlled, and all light fixtures shall be a cut-off or shoebox design to prevent glare and light spillage off-site. Building mounted lights shall also be of shoebox design. All light poles shall not exceed a height of twenty (20') feet.

5. Handicap accessible parking spaces shall be required for all developments in the Office-Professional, Commercial or Industrial District. The number of parking spaces required, and standard dimensions shall comply with the latest NM Building Code and the NM Disabled Parking Act standards.

**ARTICLE 23**  
**LEGAL NON-CONFORMING USES**

**Section 23.1. General Rules**

1. Property owners of legal non-conforming structures and uses may be permitted to make maintenance or repairs to their structure or use.
2. Any alteration, restoration or repair costs of a legal non-conforming structure that exceeded fifty (50%) percent of the market value shall be required to come into compliance with the permitted uses of the zoning district for which the parcel of land is located within as stated elsewhere in this ordinance. The owner(s) shall be responsible for providing all documentation.
3. Subdivision lots or parcels of land which do not conform to this Ordinance, because of size, may be developed at any time provided such development conforms to all other provisions of this Ordinance and New Mexico Environmental Department restrictions and regulations.
4. Legal non-conforming uses are transferable provided the property owner discloses in writing to the new proprietor that the property is a legal non-conforming use and is subject to restrictions or conditions which may have been placed on the property.
5. Non-conforming billboard signs that are without an existing display area shall be considered abandoned.
6. A non-conforming change of use shall be required to come into compliance with the permitted uses of the zoning district for which the parcel of land is located within.

**Section 23.2. Approval of Legal Non-Conforming Uses**

1. **Administrative Approval.** A legal non-conforming use may be approved by the Director provided the non-conforming use is verified prior to approval. The property owner may submit appropriate and sufficient documents, such as but not limited to, business licenses, tax records, notarized statements, and other documents deemed necessary for approval by the Director.
2. **Certificate of Legal Non-Conforming Use.** A certificate of Legal Non-Conforming Use will be issued by the Director. The certificate shall include the approved use, approval by administrative or Commission, the date and place of approval, the specific restrictions and conditions of approval, documentation on file that verifies legality, specific dimensions, and sizes of structures and lot or parcel, and other information deemed appropriate.

**Section 23.3. Enlargement, Extension, Or Expansion**

Any legal non-conforming structure or use may be expanded, enlarged, or extended in accordance with all the following provisions:

1. Shall be approved by the Commission at a public hearing in compliance with the application and procedure requirements stated in Article 2 of this ordinance.

2. The expansion, enlargement, or extension of a legal non-conforming structure or use shall not be greater than twenty (20%) percent of the structure or uses original size as it existed at the time it became a legal non-conforming use.
3. An expansion, enlargement or extension of a structure shall not encroach or expand into the required setback requirements stated in Article 20 of this ordinance.
4. The Commission may require fencing, buffering, landscaping, or other conditions to the extent deemed appropriate and necessary for approval.
5. Adverse effects on surrounding properties and areas shall be considered by the Commission and/or Authority in their determinations for approval.

#### **Section 23.4. Discontinued Legal Non-Conforming Use**

1. If the legal non-conforming use is abandoned or discontinued for a period of six (6) months, the non-conforming use shall be terminated and shall be required to conform to the permitted uses of the zoning district in which the property is located.
2. If a legal non-conforming use is discontinued due to litigation, medical issues or military service, the legal non-conforming use may be extended upon the approval of the Director.

#### **Section 23.5. Fees**

All requests relating to this Article that require Commission review shall require a fee consistent with Appendix A of this Ordinance.

**ARTICLE 24**  
**SPECIAL USE PERMITS**

**Section 24.1. Granting Special Use Permits**

1. A Special Use Permit shall be bound and limited to the parcel(s) of land described in the application and to the landowner/petitioner of the property stated in the application and as stated in the Certificate of Zoning. A Special Use Permit is nontransferable in location or ownership, except when approved by the Commission at a public hearing, including the name change of a company, LLC, corporation, trust, and/or partnership. So as not to misperceive, confuse and misapprehend prospective owners, a real estate contract shall be construed as a change in ownership and as such shall require a new Special Use Permit application and process.

It is the purpose of this article to establish criteria for those uses listed in Section 24.2 of this Ordinance, and similar uses, as determined by the Planning Director. It is recognized that these uses which, because of their unique characteristics, cannot be properly addressed without consideration in each case of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location. Special uses shall require issuance of a Zoning Certificate by the ETZ Commission.

This Article establishes general and specific development standards for special uses and provides for a review process which will evaluate the location, scale, compatibility with rural character and development characteristics of such uses and their impact on adjacent properties and the county, to the end that such uses may be approved, modified, or disapproved fairly and objectively.

The Commission shall not use a Special Use Permit to alter or reduce the requirements of the zoning district in which the proposed land use is located.

2. A special use permit (SUP) application shall be provided by the Director. The cost of the SUP may be found in Appendix A of this ordinance. Application procedures for a SUP may be found in Article 2. A complete application shall contain all the following information:
  - a. Property owner's name, mailing address, email and telephone number; and
  - b. Development Plan. A clear and precise site plan showing the access driveway(s) to existing and proposed private or public roads. The plan shall also include all existing and proposed structure(s), the location of any utilities, parking area, landscaping, lighting for parking areas and any other item that the Director deems necessary. The applicant shall clearly state the use or business that will be conducted on the property, the business hours and days of operation, a site plan and whether a single-family dwelling unit will be included in the development plan: and
  - c. Location and Related Information. The applicant shall furnish the address and legal description of the parcel of land on which the special use is to be located, including section, township and range, parcel ID numbers, and acreage.

- d. Notification. A current list of all surrounding property owners within six hundred feet of the proposed special use. The information shall include a proximity map, the physical address of the property and the owner's mailing address; and
  - e. Other. Additional documents may be required by the Director or Commission to assist in the determination of the special use permit.
3. Prior to granting any Special Use Permit, the Commission shall hold a public hearing, and shall determine if all the following requirements have been met:
- a. The proposed use will not be injurious to the public health, safety and general welfare of the community.
  - b. The proposed use, at the proposed location, will not be unreasonably detrimental to the economic welfare of the county, and that it will not create excessive public costs for facilities and services by finding that:
    - 1. The proposed use will be adequately serviced by adequate existing facilities such as highways, roads, police and fire protection, irrigation and drainage structures, refuse disposal, water and sewers/septic systems, and schools.
    - 2. The proposed use will be of sufficient economic benefit to offset additional public costs or economic detriment.
  - c. The proposed use will not generate significant nuisance conditions such as heavy traffic on local roads or excessive noise, dust, glare, and vibration.
  - d. The proposed use shall be within the spirit, intent, purpose, and general plan of this Ordinance.
  - e. The location and character of the proposed use is compatible and consistent with the character of the area in which it is to be located, will ensure compatibility with existing neighboring land uses; and
  - f. The proposed use is in conformance with the latest Chaves County Comprehensive Plan.
4. The Commission may impose, in addition to the regulations specified herein, such conditions as it deems necessary to protect the best interests of the surrounding property or neighborhood or the county. These conditions may include, but are not limited to, the following:
- a. Increasing the required lot size, setback or yard dimensions.
  - b. Limiting the height of buildings or structures.
  - c. Controlling the number and location of vehicular access points.
  - d. Requiring the dedication of additional rights-of-way for future public roadway improvements.
  - e. Requiring the designation of public use easements.
  - f. Increasing or decreasing the number of required off-street parking and/or loading spaces as well as designating the location, screening, drainage, surfacing or other improvement of a parking area.
  - g. Limiting the number, size, height, shape, location and lighting of signs.

- h. Requiring or limiting view-obscuring fencing, landscaping or other facilities to protect adjacent or nearby properties.
  - i. Designating sites for and/or the size of open space or recreational areas.
  - j. Requiring site reclamation upon discontinuance of the use and/or expiration or revocation of the Special Use Permit.
  - k. Limiting hours and size of operation.
  - l. Controlling the use of the site and/or structures on the property.
  - m. Requiring mitigation measures to effectively reduce the potential for land use conflicts with agricultural lands and adjacent residential lands, such as: landscape buffers, special setbacks, screening, and/or site design criteria using physical features, such as rock outcrops, ravines, and roads.
5. A Special Use Permit may be revoked or limited by the Commission if anyone (1) of the following findings can be made:
- a. That one or more of the conditions of approval of the Special Use Permit have not been met.
  - b. That the Special Use Permit was obtained by misrepresentation or fraud.
  - c. That the use for which the Special Use Permit was granted has ceased or was suspended for twelve (12) or more consecutive calendar month.
  - d. That the actual or permitted use is in violation of any statute, ordinance, law, or regulation.
  - e. That the use permitted by the Special Use Permit is detrimental to public health, safety or welfare, or constitutes a nuisance.
  - f. Change in property ownership or site location.
6. A Special Use Permit may be suspended by the Director if there are any (1) of the following reasons:
- a. The Special Use Permit has expired.
  - b. The Special Use is discontinued or abandoned.
  - c. The Special Use is transferred from one person to another or from one location to another.

**Section 24.2. Use Regulations** A special use permit **shall be required** for the following uses:

- 1. Airports or landing fields in residential districts.
- 2. Cannabis Production in residential districts.
- 3. Cannabis Establishments in commercial district.
- 4. Cemeteries and mausoleums in a residential district.
- 5. Commercial communications transmitted antennas or towers provided they are at least 100 feet from any public way.
- 6. Community buildings or recreation fields in a residential district.
- 7. Medium or Utility scale Solar Facilities in a residential district.
- 8. Electric substations, battery energy storage system facilities, gas regulator or pump/booster stations, and well and water pumping stations in any residential district,

9. Extraction of gravel, sand or other raw materials, provided that a satisfactory guarantee be posted with the Commission assured that the land be left in such a condition that all faces, slopes, edges, or spoil piles have a maximum slope 2½ feet horizontal to one (1) foot vertical.
10. Hospitals, clinics, and institutions in residential districts.
11. Nursery schools, day nurseries, childcare centers, pre-kindergartens, and other special and similar private schools in an Industrial District as an accessory or function for employees, provided that adequate safety from loud noises and other industrial dangers are supplied and there is at least 100 square feet of open play for each child enrolled. Each play area shall be screened with a suitable wall, fence, or evergreen shrub.
12. Parking lots adjacent to, across the street from, or across the alley from the Commercial District, or a Business District.
13. Penal or detention institutions in the commercial district.
14. Poultry hatchery, poultry production, dairying and any similar activities in a commercial district.
15. Railroad tracks, yards, and similar railroad facilities.
16. State licensed or state operated family or group care residences for homeless, criminal offenders, or alcohol or drug abusers that function as a transition from institution to community in a residential district.
17. Substance abuse treatment facilities in a residential district.
18. Commercial amusements or recreational developments.
19. Multigenerational housing as a second dwelling unit in a residential district, with a yearly review by Staff in a residential district.
20. Day Care Home-Group in a residential district.
21. Wireless telecommunication towers in a residential district.

## ARTICLE 25

### SOLAR AND BATTERY ENERGY STORAGE FACILITIES

#### Section 25.1 General

To reasonably regulate the location, design, construction and operation, decommissioning, and reclamation of Photovoltaic Panel Installation Facilities (Solar Facilities) and Battery Energy Storage Systems (BESS) in order to prevent negative impact on property values, minimize any burden placed on the City and County emergency response teams, protect the quality of life in residential communities, and to protect the health, safety and wellness of the ETZ district community.

Medium and Utility Scale Solar Facilities may be permitted in the I-1 Industrial District or as a Special Use Permit in any zoning district provided approval by the Commission.

BESS may be permitted in the I-1 Industrial District or as a Special Use Permit in the C-1 Commercial District providing approval by the Commission.

All new Battery Energy Storage Systems (BESS) shall comply with the latest approved Chaves County Building Code Ordinance No.60 for the location, project size, fire prevention and control, expected life span, and decommissioning and reclamation of the project.

#### Section 25.2 Solar Facilities General Provisions

1. **Small Scale Solar Facilities** shall be permitted for the purpose of reducing onsite consumption of utility power, provided that the following conditional standards are met:
  - a. Sloped roof-mounted photovoltaic panel installations shall comply with Chapter 11, Section 11.12 of the NFPA 1 Fire Code, and Section 38.12 of the NFPA 70, NMEC.
  - b. Flat roof-mounted photovoltaic panel installations require structural engineered plans signed by a licensed engineer stating the roof is structurally sufficient for photovoltaic panels.
  - c. Ground-mounted photovoltaic panels shall not exceed ten (10) feet in total height and shall be located at least ten (10') from the residential home, fifteen (15') feet inside the rear and side property line and at least forty (40') feet from the front property line.
  - d. All utility service lines serving the ground-mount photovoltaic panels shall be located underground in compliance with the latest approved NMEC.
  - e. All components servicing the photovoltaic panels shall be concealed including mechanical piping and electrical conduits.
2. **Medium and Utility Scale Solar Facility Requirements** may be permitted provided a Development Plan of the project area is provided and that the following conditional standards are met:
  - a. Minimum project area for a medium or utility-scale solar facility area shall be ten (10) acres.

- b. Maximum project area for a utility-scale solar facility area shall be seven hundred-fifty (750) acres.
- c. The percentage of solar photovoltaic panel coverage in relation to the project area shall not exceed seventy (70%) percent.
- d. Minimum setback requirement for photovoltaic panels or related structures shall be one hundred (100') feet from all property lines.
- e. Minimum service roads shall be twenty-six (26') feet wide and shall be constructed as a hard pack, weatherproof surface road. At minimum, the road shall be required within the security fenced area located along the perimeter of the solar facility.
- f. Minimum security fences shall be six (6') feet in height and shall be required around the perimeter of the project area.
- g. Maximum height of the highest edge of the photovoltaic panels shall be fifteen (15') feet, as measured from the natural ground.
- h. Emergency response plan and training for local emergency responders.
- i. All outdoor lighting shall comply with the Night Sky Act and be arranged to direct light downward onto the property and not onto the public streets. The lighting shall be installed in such a manner as to avoid glare, visible bulbs, or light spillage onto adjacent properties. All outdoor lighting shall be shown on the Development Plan for approval.
- j. All structures associated with the solar facility shall be arranged to direct reflected sunlight away from adjacent parcels and public streets and shall be installed in such a manner as to avoid glare onto adjacent parcels and interference with traffic, including but not limited to air traffic. The Federal Aviation Administration (FAA) may require a glare impact study and/or an airspace study to determine impacts on airports.
- k. Maximum noise level from the project area shall not exceed sixty (60) dBA.
- l. Signs associated with the facility shall follow ANSI Z535 and shall include the type of technology associated with the facility, any special hazards associated, the type of suppression installed in the area and 24-hour emergency contact information, including a reach-back phone number.
- m. Solar Facility construction and maintenance shall compliance with all County, State and Federal laws, regulations and code.
- n. A development plan for any possible Battery Energy Storage System (BESS) facilities.
- o. A closure, decommissioning and reclamation plan, approved by the Commission.
  - 1. Expected lifespan.
  - 2. Implementation of the reclamation and restoration of the site.
  - 3. Estimated cost of decommissioning and reclamation.
  - 4. An Environmental Impact Assessment.
  - 5. Sufficient financial bonding made payable to Chaves County.

### **Section 25.3 Battery Energy Storage System (BESS) General Provisions**

**Commercial/Industrial BESS** - may be permitted provided a Development Plan for the project area is provided and the following conditional standards are met:

1. Minimum project area/ parcel of land for the BESS project shall be five (5) acres.
2. The maximum storage capacity for a BESS shall be a Tier 1 facility.
3. Minimum setback requirements for a BESS project and/or related structures shall be one hundred (100') feet from all property lines.
4. Minimum six (6') foot high screen fence with a self-locking gate to prevent unauthorized access shall be required around the perimeter of the BESS.
5. Fire control and suppression systems for a Tier 1 BESS shall be required.
6. An emergency response plan and training for local emergency responders shall be required.
7. BESS facilities shall use UL 9540A equipment in the construction and maintenance of the facility.
8. BESS shall provide a fire and explosion control system.
9. All on-site utility lines may be placed underground to the extent feasible and as permitted by the serving utility, except for the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.
10. All outdoor lighting shall comply with the Night Sky Act and be arranged to direct light downward onto the property and not onto the public streets. The lighting shall be installed in such a manner as to avoid glare, visible bulbs, or light spillage onto adjacent properties. All outdoor lighting shall be shown on the Development Plan for approval.
11. The maximum noise level from the project area shall not exceed sixty (60) dBA.
12. Signs associated with the facility shall include the type of BESS technology associated with the facility, any special hazards associated with the project, the type of suppression installed in the BESS facility and 24-hour emergency contact information, including a reach-back phone number.
13. BESS construction and maintenance shall comply with all County, State and Federal laws, regulations and code.
14. A closure, decommissioning and reclamation plan shall be approved by the Commission and shall include the following:
  - a. Expected lifespan.
  - b. Implementation of the reclamation and restoration of the site.
  - c. Estimated cost of decommissioning and reclamation.
  - d. An Environmental Impact Assessment.
  - e. Sufficient financial bonding made payable to Chaves County.

## ARTICLE 26

### SEXUALLY ORIENTED BUSINESSES AND ADULT ENTERTAINMENT ENTERPRISES

#### **Section 26.1. Purpose and Intent**

The purpose of this article is to establish reasonable and uniform regulations for adult activity and to prevent the concentration of sexually oriented businesses and adult entertainment enterprises or their proximity to incompatible uses, while permitting the location of sexually oriented businesses in certain areas. The further purpose of this article is to provide a minimum number of regulations to address sexually oriented businesses and adult entertainment enterprises to promote the health, safety, and general welfare of the citizens within the Roswell-Chaves County Extraterritorial Zone (ETZ) district.

This chapter treats sexually oriented businesses and adult entertainment enterprises differently from other commercial enterprises because of potential markedly negative secondary effects upon their surrounding communities and neighborhoods. These distinctions will also provide for reasonable alternative avenues of communication which do not violate the First and Fourteenth Amendments of the United States Constitution.

Its purpose is to protect the public health, safety and welfare of the citizenry of Chaves County, New Mexico through the regulation of sexually oriented businesses and adult entertainment enterprises through zoning and other land use regulations.

The regulations set forth in this article are not designed to suppress the expression of unpopular views and behaviors, but rather to minimize children's and the general public's exposure to negative effects associated with sexually oriented businesses and adult entertainment enterprises, to prevent sex-related crimes, vandalism, and criminal activities related to alcohol and drug abuse, to protect the county's retail trade, to maintain property values, to minimize impacts on police services, to minimize sexual harassment of the public, and to protect and preserve the quality of the residential neighborhoods, commercial districts, industrial districts, and recreational activities within the ETZ district.

#### **Section 26.2. General Requirements**

1. All sexually oriented businesses or adult entertainment enterprise facilities shall be established, located or operated in the I-1 Industrial District with a specific use for a sexually oriented business/adult entertainment enterprise facility approved by the Commission with the following restrictions:
  - a. Residential dwelling units shall not be permitted on the same parcel of land as the sexually oriented business or adult entertainment enterprise facility.
  - b. Recreational Vehicles shall not be permitted to stay overnight on the same parcel of land as the sexually oriented business or adult entertainment enterprise facility.
  - c. Sexually oriented business/adult entertainment enterprise facilities shall conform to all New Mexico Alcohol Beverage Control Division regulations except for the restrictions set forth elsewhere in this article.

2. Sexually oriented business or adult entertainment enterprise facility regulated by the New Mexico Alcohol Beverage Control Division shall not permit anyone under the age of twenty-one (21) to be within the business or facility.
3. No person shall knowingly and intentionally appear in a state of nudity in or outside a sexually oriented business/adult entertainment enterprise facility.
4. A sexually oriented businesses/adult entertainment enterprise facility shall always provide at least two (2) security guards during operational hours.
5. Business Operational Hours for Sexually oriented businesses or adult entertainment enterprise facilities shall be permitted to operate from 10:00 AM to 2:00 AM Monday through Saturday and from 11:00 AM to 12:00 AM on Sundays.

### **Section 26.3. Locational Requirements**

No sexually oriented business or adult entertainment enterprise facility shall be established, located, or operated within certain distances of specified land uses as set forth below:

1. No such business shall be established or located within 2,640 feet (1/2 mile) of any existing residential district which contains three or more existing residential dwelling units.
2. No such business shall be established or located within 2,640 feet of any other sexually oriented business or adult entertainment enterprise facility.
3. No such business shall be established or located within 2,640 feet of any park, public building (which the public is authorized to attend); religious institution, school, licensed childcare facility and/or center, or similar existing youth organization structures.
4. The distances set forth above shall be measured in a straight line from the nearest property lines of the sexually oriented business or adult entertainment enterprise to the nearest property lines of the property so zoned or used without regard to intervening structures.

### **Section 26.4. Appeal of Denial**

1. An applicant may appeal a decision by the Director, or Commission to deny an application a sexually oriented business by filing an appeal with the Department pursuant to Article 2, Administration, Section 2.1.4. A hearing by the ETZ Authority about such an appeal shall be scheduled
2. An applicant which is aggrieved by the decision of the Authority may seek judicial review of such decision as permitted or allowed by New Mexico law.

### **Section 26.5. Sexually Oriented Business Development and Performance Standards**

1. Maximum occupancy load, fire exits, aisles and fire equipment shall be regulated, designed and provided in accordance with the fire department and building regulations and standards adopted by the County and the State Fire Marshal.

2. No sexually oriented business/adult entertainment enterprise shall be operated in any manner that permits the observation of any material or activities depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way or from any location outside the building or area of such an establishment. This provision shall apply to any display, decoration, sign, show window or other opening.
3. All off-street parking areas and premises of the sexually oriented business shall be illuminated from dusk to closing hours of operation with a lighting system.
4. The premises within which the sexually oriented business/adult entertainment enterprise is located shall provide sufficient sound-absorbing insulation so that noise generated inside said premises shall not be audible anywhere on any adjacent property or public right-of-way or within any other building or other separate unit within the same building.
5. The building entrance to a sexually oriented business/adult entertainment enterprise shall be clearly and legibly posted with a notice indicating that under eighteen (18) years of age are precluded from entering the premises. Said notice shall be constructed and posted to the satisfaction of the Director or his or her designer.
6. All indoor areas of the sexually oriented business/adult entertainment enterprise within which patrons are permitted, except restrooms, shall always be open to view by the management.

**ARTICLE 27**  
**WORKFORCE CAMPS**

**Section 27.1 GENERAL PROVISIONS**

1. The purpose of this article is to provide for the safety, health, prosperity, order, comfort, and moral of the residents of Chaves County; and to provide certain standards and regulations relating to Workforce Camps and promote conformance with standards established to ensure such facilities are suitably developed for the placement and occupancy of laborers for dwelling unit purposes with the necessary accessory uses and amenities on properties located within the ETZ district.
2. This article is intended to enable the development of unique, well-planned projects that incorporate a variety of portable, modular and prefabricated structures for permanent, transient or seasonal occupancy. It is also the intent of this article to prohibit inappropriate and incompatible land use; and regulate the future installation of Workforce Camps.
3. The provisions of this article are held to be minimum requirements. Whenever any provisions of this article conflict with other laws, rules, regulations, covenants, or ordinances, the more restrictive shall govern. This article shall be construed broadly to promote the purposes for which it is adopted.
4. A development plan shall be required for the approval of a new workforce camp.
5. The Workforce Camp shall comply with the American with Disabilities Act.
6. Developments that include both Recreation Vehicle Park spaces and Workforce Camp dwelling units on the same site and shall be considered provided comply with both requirements stated in Article 27 and Article 28.
7. Workforce Camp located within a FEMA Special Flood Hazard Area shall comply with all regulations set forth in the Chaves County Flood Prevention Ordinance.
8. Location:
  - a. Shall not be so close to a school as to interfere with the schoolchildren's travel to and from the school.
  - b. Shall not be permitted within 2,640 feet (1/2 Mile) of a Sexually Oriented Business and/or Adult Entertainment, including those located outside the ETZ district area.

**Section 27.2 ALLOWABLE USES**

1. Workforce dwelling units and recreational vehicles.
2. Accessory structures or uses shall be primarily for the occupants of the camp, including but not limited to recreational facilities, cafeterias, food courts, lobbies, meeting rooms, management offices, laundry rooms, tenant storage lockers, parking areas, storage buildings, swimming pools, garbage and trash disposal facilities.

3. Utility service structures or uses such as, but not limited to, well house, septic tank, electrical transformer, liquid propane tanks, and small cell nodes.
4. Guest parking lots; one parking space per every dwelling unit.

### **Section 27.3 SPECIFIC USE STANDARDS.**

Workforce camp dwelling units and accessory structures shall be built to New Mexico Construction Industries Division (NMCID) and/or the HUD Code Manufactured Housing standards. Any other residential metal structures shall require stamped and signed plans from a licensed New Mexico Structural Engineer or Architect. The plans shall be prepared in accords with the New Mexico Residential Building Code. A County building permit and/or MH placement permit shall be required.

### **Section 27.4 DENSITY AND DIMENSIONAL REQUIREMENTS**

1. **Number of dwelling units**

The maximum number of dwelling units on a 5-acre Workforce Camp shall be ten (10).

2. **Site area**

A detailed development plan showing the layout of the Workforce Camp shall be required. Workforce Camps shall be located on a five (5) acre or larger parcel of land. The parcel shall have direct access to a public road or street.

3. **Occupancy**

The maximum number of occupants per dwelling unit shall be four (4).

4. **Open Space Requirements**

The twenty percent (20%) open space requirement shall be located on the same parcel of land as the Workforce Camp. Land occupied by storage or office buildings, streets, driveways and parking spaces shall not be counted toward satisfying this open space requirement. Undeveloped areas and areas occupied by parks, recreational buildings and recreational areas may be counted toward the open space requirement.

### **Section 27.5 SITE DEVELOPMENT STANDARDS**

1. **Site Suitability Policy**

- a. The following agencies shall be notified by Staff to determine if the Workforce Camp's Development Plan is suitable for the proposed location.

City of Roswell,

Chaves County Road Department (CCRD),

Soil and Water Conservation District (SWCD),

New Mexico Office of the State Engineer (NMOSE),

New Mexico Environment Department (NMED), and

New Mexico Department of Transportation (NMDOT).

- b. Lands subject to flooding and lands deemed to be topographically unsuitable shall not be developed for any of the residential occupancies permitted by this article or for other related uses as it may increase danger to health, life, or property, or aggravate erosion or flood hazard.

## **2. General**

The standards of this section shall apply equally to all Workforce Camps to the extent specified. Building permits for structures and placement permits for manufactured houses shall be required by the Department.

- a. A Development Plan shall include a Site Plan showing the location of the Workforce Camp dwelling units, required open space areas and parking areas, oversize work truck parking areas, roads, underground utilities, light poles, septic tanks or storage tanks, drain fields, all accessory structures and other improvements.
- b. The Development Plan shall include a topography survey of the site and design Finish Floor elevations for all proposed new structures. Storm water detention and/or retention ponds may be required to prevent any possible run-off on adjacent properties. Ponds shall be no more than three feet below natural ground and shall have a maximum slope of one to three on either side.
- c. The site shall be harmoniously and effectively organized in relation to topography, the shape of the tract and the shape, size and position of structures, with consideration for usability of space, appearance and livability. Each workforce camp dwelling unit shall be similar in general shape, space and orientation to other rooming units found on the same camp.
- d. Adequate accessibility to main public roadways and services shall be established to accommodate emergency vehicles with limited turning movements, reduced visibility, and slower accelerations speeds to main roadways. Driveway apron that access onto public roads shall be paved or concreted to match the existing road and shall be maintained in good condition by the camp owners. No "potholes".
- e. All structures shall be a minimum of fifteen (15) feet from any side or rear property lines and a minimum of thirty (30) feet from the front property line, abutting a street or road.
- f. Guest parking lots shall be constructed, at a minimum, of a hard pack surface with gravel, chip-seal, concrete or pavement to provide sufficient storm water run-off. Each parking space shall be a minimum of nine (9) feet wide by twenty (20) feet long in size. ADA parking may be required.
- g. A Workforce Camp shall be assigned one address. Each dwelling unit shall have a number or letter assigned and posted to it by the owner or manager. Each dwelling unit shall be clearly marked and visible from the access road with reflective three or four inches (3" or 4") numbers/letters.

## **3. Access, Utilities and Service**

### **a. Water service.**

Any water supply not provided by the City of Roswell, Cumberland Co-op or Berrendo Water Co-op, shall conform to the minimum standard required by NMOSE. Water service, hookups and water quality testing shall conform to the minimum standards required by the NMED and the New Mexico Plumbing Code. Failure to comply with necessary requirements shall result in the denial of the Workforce Camp application or renewal.

b. **Liquid Waste Disposal.**

Liquid waste disposal services shall conform to the minimum standards of the NMED and the latest New Mexico Plumbing Code.

c. **Solid Waste.**

Plastic and/or metal trash containers shall be provided throughout the site by the owner and/manager to prevent scattering and blowing trash, debris and waste. No burning of trash, debris or waste shall be permitted.

4. **Streets and Access**

a. All street and driveway access points to workforce camps may be reviewed by the City of Roswell, CCRD and NMDOT to ensure that emergency vehicles can ingress and egress through the Workforce Camp efficiently and appropriately.

b. Internal roads that provide direct access to residential units or other structures shall be constructed of a hard-pack surface with gravel, chip-seal, concrete or pavement, at a minimum width of twenty-six (26) feet and shall extend throughout the camp as necessary to provide convenient access to each Workforce Camp dwelling unit and to common facilities and uses.

c. The minimum width of the entrance(s) to Workforce Camps from the public street may be sixty (60) feet.

d. No exterior entrance may be within three hundred (300) feet of another entrance to the Workforce Camp, or an entrance to any adjacent property, unless waiver is granted by the Department and/or the Commission.

5. **Traffic Impact Studies**

Traffic Impact Studies may be required by the NMDOT, CCRD and/or the City of Roswell.

6. **Intersection Visibility (Safe sight Triangle)**

No structure or vegetation (at mature height) that exceeds three (3) feet in height shall be permitted within a safe sight triangle of the entrance/driveways. Exceptions may be permitted for utility poles, lighting standards, County or State traffic or other County-approved signs.

7. **Other Utilities and Services**

a. Electrical services and utility boxes shall comply with the latest New Mexico Electrical Code. Including the New Mexico Night Sky Act.

b. All utilities, including electrical power and telephone lines, shall be installed underground.

c. All roads, walkways, guest parking, and service areas shall be provided with lighting adequate to ensure the safety of vehicles and pedestrian traffic.

d. Liquid Propane use shall comply with Section 7-5-1 to 7-5-23 NMSA.

8. **Parking, off-street**

Number of parking spaces. All the parking areas required shall be located on the Workforce Camp site. One (1) parking space for every dwelling unit.

9. **Fire protection**

The State Fire Marshal may review all plans for Workforce Camps, which shall include reasonable plans and steps to minimize the potential spread of fire to adjacent structures. Failure to comply

with SFM requirements may result in the denial of the Workforce Camp application or renewal.

10. **Erosion and Drainage Plan**

The Soil and Water Conservation District may determine whether the Workforce Camp can furnish terrain management sufficiently to protect against flooding, inadequate drainage and erosion, which is a requirement for issuance of a Workforce Camp.

11. **Maintenance; owner or manager responsibilities**

The owner or manager of the Camp shall be responsible for maintaining the facility in good working order, including maintaining access roads and keeping the Camp clean, orderly and sanitary always. Liquid and/or hazardous waste shall be cleaned up immediately, and any repairs shall be addressed per NMED code.

12. **Perimeter Fencing or Landscaping**

The perimeter of the Workforce Camp shall be fenced and landscaped to provide adequate screening of adjacent properties or developments. Screen fencing shall be at a minimum height of six (6) feet. Landscaping shall be at a minimum height of six (6) feet at maturity and may include trees, shrubs, or a combination of the two. Screen fencing, and landscaping design and layout should consider safe site triangles for all driveways and roads (Section 27.5.C.6).

## **ARTICLE 28**

### **RECREATIONAL VEHICLE PARKS**

#### **Section 28.1 GENERAL PROVISIONS**

1. The purpose of this article is to provide for the safety, health, prosperity, order, comfort, and morals of the residents of Chaves County; and to provide certain standards and regulations relating to RV Parks and promote conformance with standards established to ensure such facilities are suitably developed for the placement and occupancy of laborers or recreational vehicles for residential, household living purposes with the necessary accessory uses and amenities on properties located within the ETZ District.
2. This article is intended to enable the development of a unique, well-planned project that incorporates a variety of vehicle-based housing for transient or seasonal occupancy. It is also the intent of this article to prohibit inappropriate and incompatible land use; to accommodate existing RV Parks and regulate the future installation of RV Parks.
3. The provisions of this article are held to be minimum requirements. Whenever any provisions of this article conflict with other laws, rules, regulations, covenants, or ordinances, the more restrictive shall govern. This article shall be construed broadly to promote the purposes for which it is adopted.
4. RV parks shall comply with the American with Disabilities Act.
5. Developments that include both RV parking spaces and a Workforce camp on the same site shall comply with both requirements stated in Article 27 and Article 28.
6. A development plan shall be required for approval of a new or expanding RV Park.
7. RV Parks located within a FEMA Special Flood Hazard Area shall comply with all regulations set forth in the Chaves County Flood Prevention Ordinance.
8. Shall not be permitted within 2,640 feet (1/2 Mile) of a Sexually Oriented Business and/or Adult Entertainment, including those outside the ETZ district area.

#### **Section 28.2 ALLOWABLE USES**

1. One recreational vehicle and one personal vehicle per parking space. No tents except in designated areas that are located within direct access to the guest parking lot and bathing and toilet facilities.
2. No manufactured homes, mobile homes, modified metal containers intended for dwelling purposes, or dwelling units of conventional construction shall be permitted for living purposes on the RV park, with the exception of a park office or manager's residence.
3. Accessory structure or use.
  - a. An accessory structure or use shall be primarily for the occupants of the park, including but not limited to recreational facilities, cafeteria, food courts, lobbies, meeting rooms, management

offices, laundry rooms, tenant storage lockers, parking areas, storage buildings, swimming pools, garbage and trash disposal facilities.

- b. No accessory structures may be placed or constructed on an RV parking space, except for a single carport, secured and anchored to a concrete footing, provided by the park owner or manager. This provision shall not be interpreted as a limitation on the size of the manager's residence, management office, recreational office, restroom area, or other common park accessory use.
- c. Utility service structures or uses such as, but not limited to, well houses, septic tanks, electrical transformers, power poles and small cell nodes. Propane tanks shall be placed in a secure storage container/ area free from weeds, debris and combustible materials.
- d. No above ground septic storage tanks shall be permitted.

### **Section 28.3 SPECIFIC USE STANDARDS**

Recreational vehicles shall be licensed and capable of being lawfully operated on or towed behind an appropriately licensed motor vehicle on New Mexico streets and highways.

### **Section 28.4 DENSITY AND DIMENSIONAL REQUIREMENTS**

**1. Number of recreational vehicles.**

The maximum number of recreational vehicles per one-acre shall be twelve (12).

**2. Site area**

A detailed development plan showing the layout of the recreational vehicle park shall be required. All RV parks shall be located on a parcel of land five (5) acres or greater, under the ownership of one person, partnership, LLC, or company. The parcel shall have direct access to a public road or street. A land division of an RV park, resulting in a parcel of land less than five (5) acres, shall not be permitted without approval from the Commission.

**3. Recreational Vehicle Parking Space**

Each RV parking space shall be a minimum of twenty-five (25') wide by ninety (90) feet long in size.

**4. Open Space Requirements.**

The twenty percent (20%) open space requirement shall be located on the same parcel of land as the RV Park. Land occupied by storage or office buildings, streets, driveways and parking spaces shall not be counted toward satisfying this open space requirement. Undeveloped areas and areas occupied by parks, recreational buildings and recreational areas may be counted toward the open space requirement.

### **Section 28.5 SITE DEVELOPMENT STANDARDS**

1. The following agencies shall be notified by Staff to determine if the RV Development Plan is suitable for the area.

- a. City of Roswell.
- b. Chaves County Road Department (CCDC).
- c. Soil and Water Conservation District (SWCD).
- d. New Mexico Office of the State Engineer (NMOSE).
- e. New Mexico Environment Department (NMED). and
- f. New Mexico Department of Transportation (NMDOT).
- g. Lands subject to flooding and lands deemed to be topographically unsuitable shall not be developed for any of the residential occupancies permitted by this article or for other related uses as it may increase danger to health, life, or property, or aggravate erosion or flood hazard, except as specifically allowed by Chaves County's Floodplain Management Ordinance. Such lands within a proposed development site shall be set aside for such uses to not be endangered by periodic or occasional inundation or shall not produce unsatisfactory living conditions.

## 2. General

The standards of this section shall apply equally to all new RV parks or the enlargement of existing RV parks to the extent specified. Building permits for structures and placement permits for manufactured homes shall be required by the Department.

- a. A Development Plan shall include a Site Plan showing the location of the RV parking spaces, interior access roads, required open space and parking areas, underground utilities, light poles, all septic or storage tanks, drain fields, recreational or common structures, open space areas and other improvements.
- b. The Development Plan shall include a topography survey of the site and shall include design Finish Floor elevations for all parking spaces, roads and structures. Storm water detention and/or retention ponds may be required to prevent any possible run-off onto adjacent properties. Ponds shall be no more than three feet below natural ground and shall have a maximum slope of one to three on either side.
- c. The site shall be harmoniously and effectively organized with consideration for usability of space, appearance and livability. Each RV parking space shall be similar in general shape, space and orientation to other parking spaces in the same park.
- d. Guest parking lot area shall be constructed, at a minimum, of a hard pack surface with gravel, chip-seal, concrete or pavement to provide sufficient storm water run-off. Each parking space shall be a minimum nine (9) feet wide by twenty (20) feet long in size. ADA parking may be required.
- e. Parking lot areas and interior access roads shall not be permitted on septic tanks or drain fields.
- f. The RV Park shall be assigned one address. Each parking space shall have a number or letter assigned and posted to it by the owner or manager. Each space shall be clearly marked and be visible from the interior road with reflective three or four inch long (3" or 4") numbers/letters.
- g. RV Parks existing at the time of adoption of this article that do not meet the requirements shall be required to apply for a non-conforming use permit with the Chaves County Planning Department. See Section 24.

### 3. Access, Utilities and Service

- a. Water service  
Water supply, not provided by the City of Roswell, Cumberland or Berrendo Water co-op, shall conform to the minimum standard required by the NMOSE. Water service and hookups shall conform to the minimum standards required by New Mexico Plumbing Code, and may be connected to an external pressurized system, if necessary. Failure to comply with NMED or NMOSE requirements shall result in the denial of the RV Park application or renewal.
- b. Liquid Waste Disposal  
Above ground, septic holding tanks on individual RV parking spaces shall not be permitted. Liquid waste disposal services and hookups shall conform to the minimum standards of NMED and the latest New Mexico Plumbing Code.
- c. Solid Waste  
Plastic and/or metal trash containers shall be provided throughout the site by the owner and/manager so as to prevent scattered and blowing trash, debris and waste. No burning of trash, debris or solid waste shall be permitted.

### 4. Streets and Access.

- a. All interior access road and entrance/driveway access points to RV parks may be reviewed by the Chaves County Road Department, the City of Roswell and/or the New Mexico Department of Transportation to ensure that emergency vehicles can ingress and egress through the RV park efficiently and appropriately.
- b. Internal access roads that provide direct access to spaces or structures shall be constructed of a hard-pack surface with gravel, chip-seal, concrete or pavement at a minimum width of twenty-six (26) feet and shall extend throughout the park as necessary to provide convenient access to each RV park space and to common facilities and uses.
- c. The minimum width of the entrance/driveways shall be sixty (60) feet.
- d. The entrance/driveway shall not be within three hundred (300) feet of entrance to any adjacent property, unless a waiver is granted by the Department and/or the ETZ Commission.
- e. The entrance/driveways that access onto public roads shall be paved or concreted to match the existing public road and shall be maintained in good condition by the park owner or manager, so as not to allow "potholes".

5. **Traffic Impact Studies.** A Traffic Impact Studies may be required by the New Mexico Department of Transportation, Chaves County Road Department and/or the City of Roswell.

6. **Intersection Visibility (Safe sight Triangle).** No structure or vegetation (at mature height) that exceeds three (3) feet in height shall be permitted within a safe sight triangle of the entrance/driveways. Exceptions may be permitted for utility poles, lighting standards, County or State traffic approved signs.

7. **Other Utilities and Services.** Failure to comply with the following requirements shall result in the denial of the RV Park application or renewal

- a. Lighting fixtures, electrical services and utility boxes shall comply with the latest New Mexico Electrical Code. Including the New Mexico Night Sky Act.
- b. All utilities, including electrical power and telephone lines, shall be installed underground.

- c. Lighting fixtures shall be provided for all entrance/driveways, access roads, walking areas, guest parking and public buildings or offices.
  - d. Liquid Propane use shall comply with Section 7-5-1 to 7-5-23 NMSA.
8. **Guest Parking Area.** One parking space per every five (5) RV parking spaces.
9. **Fire protection.** The State Fire Marshal may review all development plans for RV parks, which shall include reasonable plans and steps to minimize the potential for spread of fire to adjacent spaces and structures. Failure to comply with SFM requirements may result in the denial of the RV Park application or renewal.
10. If a RV park draws water from a municipal or commercial water system, fire hydrant spacing shall not exceed one thousand (1,000) feet measured along the roadway, and individual hydrants shall not be located more than five hundred (500) feet from each RV park space.
11. **Erosion and Drainage Plan.** The Soil and Water Conservation District may determine whether the RV Park can furnish terrain management sufficiently to protect against flooding, inadequate drainage and erosion, which is a requirement for issuance of an RV Park Permit.
12. **Maintenance; owner or manager responsibilities.** The owner of the park and/or manager shall have the following maintenance responsibilities set forth below:
13. **Compliance with regulations required.** Both the owner and/or manager of the RV park shall be responsible for enforce and/or compliance with all the park rules, all provisions of this article, any conditions imposed by the Commission upon approval, and all other applicable County ordinances.
14. **Repair and maintenance**
- a. The owner or manager shall be responsible for the maintenance and repair of all utilities, facilities and structures.
  - b. All interior access roads, driveways, parking spaces and parking areas shall be maintained to allow safe and efficient use by all vehicles in all weather conditions.
  - c. The RV Park shall be kept clean of trash, debris, waste, weeds and potholes.
  - d. Both the owner and manager of every RV Park shall be responsible for maintaining in good repair and condition all facilities and private roads. and for maintaining clean, orderly and sanitary conditions at all times. Liquid and/or hazardous waste shall be cleaned up immediately, and any repairs shall be addressed per NMED code.
  - e. All easements, buffers, and public or occupant use areas shall be cared for and kept free from weeds and trash.
15. **Perimeter Fencing or Landscaping**
- The perimeter of the RV Park shall be fenced or landscaped to provide adequate screening from adjacent properties or developments. Screen fencing shall be a minimum of six (6) ft in height. Landscaping shall be at a minimum height of six (6) ft. at maturity and may include trees, shrubs, or a combination of the two. Screen fencing, and landscaping design and layout shall consider the safe site triangles (Section 28.5.C.6).

**Section 28.7 RECREATIONAL VEHICLE RULES**

Each RV Park approved under this article shall operate and be governed by a set of rules established by the business owner or manager as necessary to ensure quality of life for residents and continued compliance with County regulations and State statutes. Rules shall be always posted in the business office.

**ARTICLE 29  
CANNABIS ESTABLISHMENTS**

**Section 29.1 APPLICABILITY**

This Article shall govern Cannabis Establishments, or parts thereof located within the boundaries of the ETZ District area.

**Section 29.2 PURPOSE AND INTENT**

The need to reasonably regulate the location, operational hours and density of Cannabis Establishments, an adult content activity, within the ETZ District in order to promote and protect the health, safety and welfare of all Chaves County citizens, to prevent criminal activities related to drug abuse, to prevent a negative impact on property values, to minimize any burden placed on law enforcement services, and to protect those who visit or otherwise live, work and stay within Chaves County. Also, these regulations are to preserve and protect the quality of life in residential neighborhoods, commerce in commercial and industrial districts, education in surrounding school and childcare facilities, and use in park areas through effective land use planning and reasonable zoning regulation. State law, the zoning and other regulations in this article are enacted pursuant to the County's authority in Section 12 of the Cannabis Regulation Act, Laws 2021. These regulations shall not conflict with the Cannabis Regulation Act, or the Dee Johnson Clean Indoor Air Act.

**Section 29.3 CANNABIS RESTRICTIONS**

1. Cannabis Establishments may be permitted in the I-1 Industrial District as a specific use approved by the Commission per Article 1 Section 2.5; Article 2, Section 2.8; Article 25; and the following restrictions and requirements stated in this Article including sufficient agriculture water rights as determined by the NM Office of the State Engineer and the Department.
2. Cannabis Establishments conducted from or within mobile unit, portable, or temporary units and/or drive-through locations shall not be permitted.
3. Cannabis producers and cannabis producer microbusiness may be permitted in the R-S District with a Special Use Permit provided sufficient agriculture water rights are in ownership by the applicant as determined by the NM Office of the State Engineer and the Department.
4. Cannabis establishments shall not be permitted within Recreational Vehicle Parks or Workforce Camps.
5. Access to or possession of cannabis, in any manner, shall be restricted to persons twenty-one (21) years of age or older.
6. Outdoor cannabis consumption in public places or events shall not be permitted.
7. Residential growth and cultivation of cannabis shall be limited to a maximum of six mature and six immature plants per residential household.
8. Cannabis consumption areas shall not be permitted.

**Section 29.4 GENERAL COMMERCIAL OR INDUSTRIAL ZONING DISTRICT REQUIREMENT**

<b>Cannabis Establishment Facilities</b>	<b>Zoning District</b>
Producer or producer microbusiness	Industrial District or Rural Suburban District- Special Use Permit
Courier, research laboratories, growth and educational stores, retailers, and testing laboratories.	I-1 Industrial District
Extraction/processing, manufacturers, and integrated product areas.	I-1 Industrial District

**Section 29.5 LOCATION REQUIREMENT**

1. Reasonable Place. Cannabis Establishments shall not be permitted within three hundred (300) feet of any school (private or public) or childcare facility; measured from property line of the lot on which the Cannabis Establishment is to be located, to the nearest point on any property line of the school or childcare facility is located; and
2. Reasonable Place. Cannabis Establishments shall not be permitted within one thousand (1,000) feet of any religious institution, community center, government facility, adult care facility, medical facility, or public parks established prior to the Cannabis Establishment permit; measured from property line of the lot on which the Cannabis Establishment is to be located, to the nearest point on any property line of the lot for which the religious instructions, community center, government facility, adult care facility, medical facility, or public parks is located; and
3. Reasonable Density. A licensed Cannabis retailers shall not be permitted within a half a mile (1/2) or (2,640 ft.) of any other licensed cannabis retailers, sexually oriented business or adult entertainment facilities, and liquor establishment, including those located outside the ETZ District; measured from property line of the lot on which the licensed cannabis retailers, and liquor establishment is located, to the nearest point on any property line of the cannabis retailer is to be located; and
4. Reasonable Time. Cannabis retailers shall be permitted to operate from 10:00 AM. to 8:00 PM Monday through Saturday and from noon to 8:00 PM on Sundays.

**Section 29.6 SPECIAL USE PERMIT APPLICATION FORM – INFORMATION REQUIRED**

1. Owners. Name, address, and telephone number of: (1) the applicant; (2) all persons owning an interest in the Cannabis Establishments including all individuals having a corporate or partnership interest in the property and/or operation of the business; (3) if it is a business entity, the officers and directors, managers, trustees and (4) any aliases of any of the above persons; and

2. Type of Establishment. The applicant shall identify the type or types of uses to be operated within the Cannabis Establishments by the prospective licensee. The applicant shall specify whether the land use will include a single-family dwelling unit on the same lot or parcel of land as the Cannabis Establishments; and
3. Location and Related Information. The applicant shall furnish the address and legal description of the parcel of land on which the land use is to be located, including section, township and range, parcel ID numbers, and acreage, together with the identification of the estate which the owner or operator holds in the land, and shall furnish the planned hours of operation during which the establishment will conduct any business; and
4. A clear and precise development plan showing the ingress and egress of the Cannabis Establishments to existing and proposed private or public roads. The development plan shall also include all existing and proposed building(s), the location of any greenhouses, utilities, the location of parking areas and the number of parking spaces, landscaping, lighting plans for parking areas and security fences; and
5. A current list of property owners, within one thousand (1,000) feet of the proposed cannabis establishment; and
6. Building plans shall be required for all modifications, alterations or new buildings. The plans shall be drawn to scale and shall also include the applicable requirements contained in the latest approved commercial building, fire, electric, HVAC and plumbing code; and
7. Documentation of other businesses that are located within and/or operating in the same building, structure, or portion thereof of the building for which the Cannabis Establishment is attempting to locate. (Strip Malls or Shopping Centers)

## **Section 29.7 PERFORMANCE STANDARDS AND REQUIREMENTS**

1. Permit Standards. After the effective date of the ordinance codified in this article, any building, structure, or tract of land developed, constructed, or used for Cannabis Establishments purposes as defined in this article shall comply with the following performance standards. However, these standards are the minimum standards, and stricter standards may be required by other regulations, including building, electrical, plumbing, HVAC and fire codes.
2. Building Facade. A Cannabis Establishment building facades, exteriors, and exits shall generally resemble surrounding buildings. All window areas shall be covered or made opaque so as not to allow visibility from the outside.
3. Building Codes. A Cannabis Establishment being constructed and/or upgraded to comply with the latest building, electrical, plumbing, HVAC and fire codes, along with the latest New Mexico Environmental Department and State Engineer's Office regulations shall have to apply for necessary State and County permits.
4. Cannabis Control Division. All Cannabis Establishments shall comply with all Cannabis Control Division regulations and requirements set forth by this Article and in the Cannabis Control Division regulations.

5. Signs. All Cannabis Establishments signage shall be located on the same property or parcel of land as the establishment and shall require a building permit issued by the Department.
6. Parking and Lighting Regulations. Department that follows the Night Sky Act.
7. Fencing. Secure fencing surrounding the establishment, measuring at least six (6) feet in height and constructed of sturdy material, shall be required in order to protect the facility and public.

**APPENDIX “A”  
FEE SCHEDULE**

<b>Type of Zoning Permit Application</b>	<b>Fee</b>
Amendment to Ordinance (Public Request)	\$1,000
Variance	\$500
Change/Amend the Specific Use in the Industrial District	\$500
Appeal of Administrative Decision-Public Hearing required	\$200
Appeal of Commission’s Decision-Public Hearing required	\$500
Administrative Review/Renewal of Special Use Permit	\$50
Renewal of Special Use Permit-Public Hearing required	\$200
Zoning Verification Letter	\$20

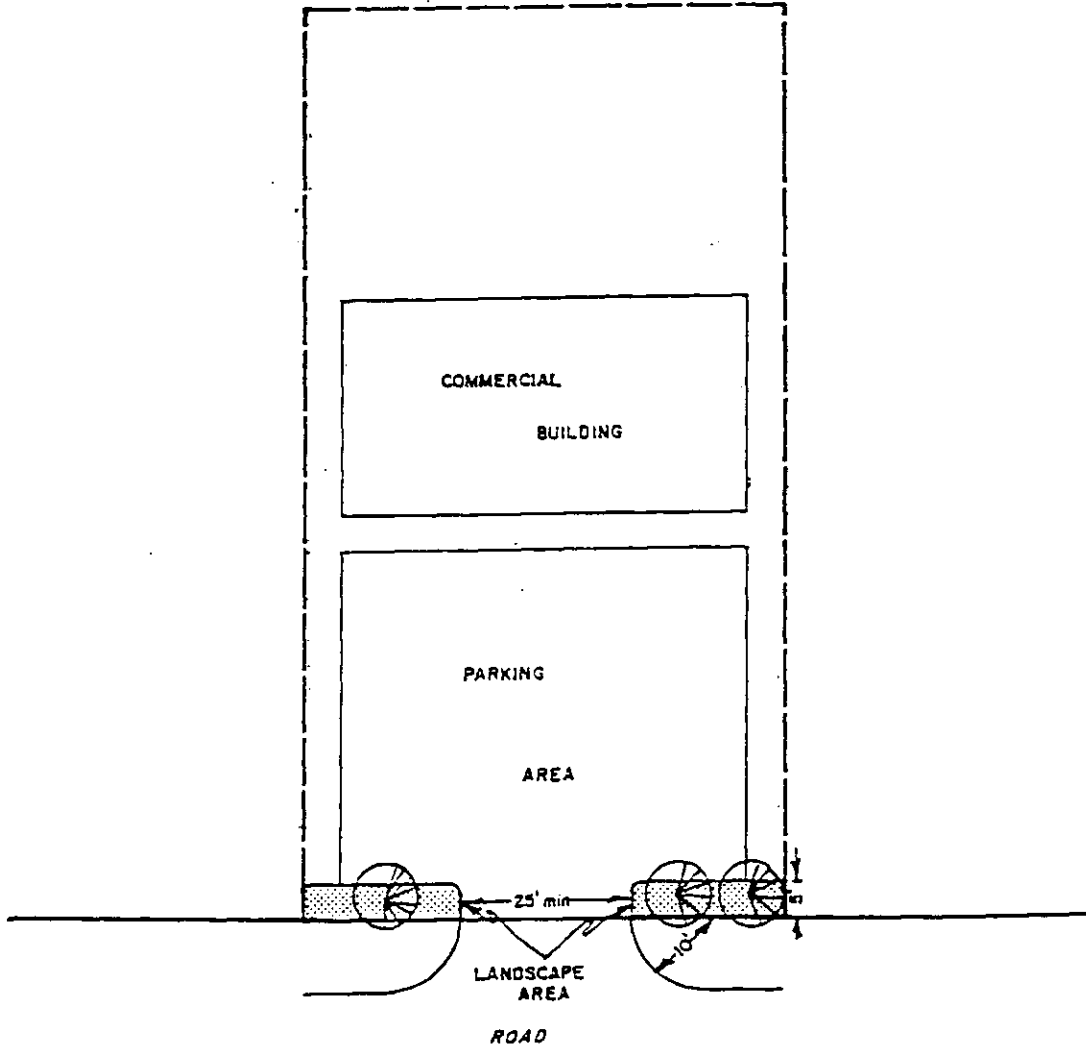
Zone Change or	<b>Acreage Range</b>	<b>Fee</b>
Special Use Permits		
	.01 to 10 acres	\$500 for the first 5 acres + \$20 per each additional acre
<i>Acreage shall be rounded to the nearest whole number.</i>	11 to 40 acres	\$600 for the first 10 acres + \$15 per each additional acre
	41 to 90 acres	\$1050 for first 40 acres + \$10 per each additional acre
	91 acres or more	\$1,550 for first 90 acres + \$5 per each additional acre

**All fees are non-refundable upon advertisement, with the exception of those approved for refund by the Roswell-Chaves County Extraterritorial Zoning Authority.**

**Fees amendment approved 11-13-2025. Resolution ETZ-A 2025-02.**

**APPENDIX B**

Sample Plot Plans for Article 18  
Arterial Overlay District

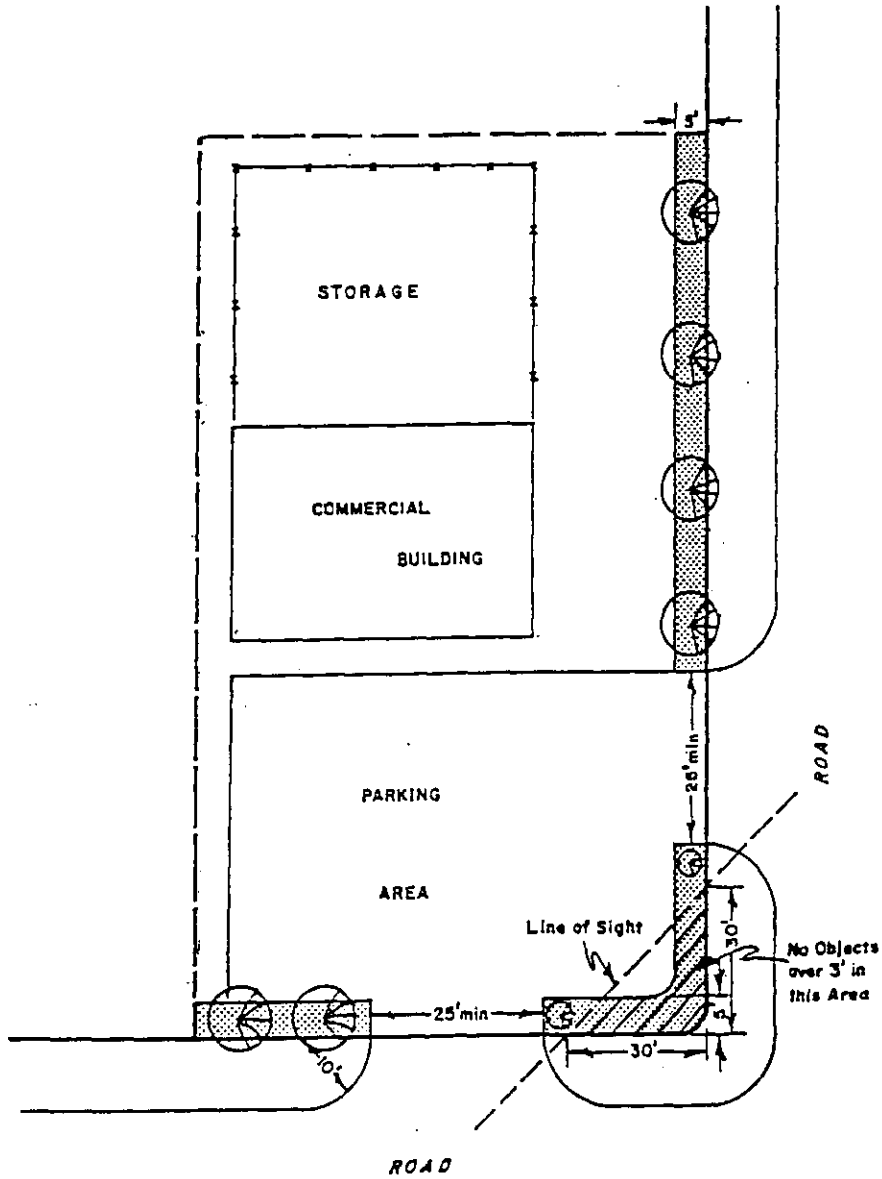


Lots with Single Road Frontage

Illustrative Example Only

# APPENDIX C

## Sample Plot Plans for Article 18 Arterial Overlay District



### Lots with Double Road Frontage

Illustrative Example Only