# CITY COUNCIL
# AGENDA

**Monday, November 17, 2025 at 1:00 PM**

**Council Chambers**

**Mayor**
**Eric Enriquez**

**Mayor Pro Tem**
**Johana Bencomo**

**Councilors**
**Cassie McClure**
**William Mattiace**
**Becki Graham**
**Becky Corran**
**Yvonne Flores**

CITY OF LAS CRUCES

**CITY HALL**
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**CONSENT AGENDA**

Minutes and Items on the Consent Agenda Are Considered Routine Items and Will Be Voted on with One Motion Unless a Councilor Requests That a Specific Item Be Removed. There Will Be No Discussion.

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**1. OPENING CEREMONIES**

1.1. Pledge of Allegiance - Councilor McClure.

1.2. Presentation of Certificates of Appreciation/Proclamations - Councilor McClure.

1.3. Pets of the Week.

**2. CONFLICT OF INTEREST INQUIRY BY MAYOR AS REQUIRED BY LCMC SECTION 2-27 (E)(2)**

**3. PUBLIC PARTICIPATION**

**4. READ CLOSED MEETING STATEMENT**

4.1. Read November 17, 2025 Closed Meeting Statement into the record.

**5. ACCEPTANCE OF AGENDA**

**6. CITY COUNCIL MINUTES**

6.1. Work Session of October 14, 2025. 4 - 26

Work Session - Oct 14 2025 - Minutes - Pdf

6.2. Regular City Council Meeting of October 20, 2025. 27 - 43

City Council - Oct 20 2025 - Minutes - Pdf

## 7. RESOLUTION(S) AND/OR ORDINANCE(S) FOR CONSENT AGENDA

7.1. RESOLUTION NO. 26-063: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES TO PURCHASE ADDITIONAL LASERFICHE RIO LICENSES FROM ICC COMMUNITY DEVELOPMENT SOLUTIONS (FORMERLY GENERAL CODE CMS) OF ROCHESTER, NEW YORK, IN AN AMOUNT NOT TO EXCEED $60,931.20, PLUS APPLICABLE TAXES (PROCUREMENT NO. 25-26-043). 44 - 112

Resolution No. 26-063 - Pdf

## 8. RESOLUTION(S) AND/OR ORDINANCE(S) FOR DISCUSSION

8.1. RESOLUTION NO. 26-064: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT BUDGET ADJUSTMENTS FOR VARIOUS CITY DEPARTMENTS THROUGH AN AMENDMENT TO THE CITY'S ADOPTED FISCAL YEAR (FY) 2025-26 BUDGET. 113 - 118

Resolution No. 26-064 - Pdf

8.2. RESOLUTION NO. 26-065: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT A GRANT AWARD FOR THE POLICE DEPARTMENT THROUGH AN AMENDMENT TO THE CITY'S ADOPTED FY2026 BUDGET. 119 - 138

Resolution No. 26-065 - Pdf

8.3. RESOLUTION NO. 26-066: A RESOLUTION AMENDING THE FY2026 - 2031 CAPITAL IMPROVEMENTS PROGRAM. 139 - 172

Resolution No. 26-066 - Pdf

8.4. RESOLUTION NO. 26-067: A RESOLUTION ADOPTING A FEE SCHEDULE PURSUANT TO LAS CRUCES MUNICIPAL CODE, CHAPTER 7, SECTION 7-46. FEES AND PENALTIES. 173 - 177

Resolution No. 26-067 - Pdf

8.5. COUNCIL BILL NO. 26-009; ORDINANCE NO. 3101: AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF CITY OF LAS CRUCES, NEW MEXICO TAXABLE INDUSTRIAL REVENUE BONDS (ENDURANCE TECHNOLOGIES USA INC. PROJECT) IN A MAXIMUM PRINICIPAL AMOUNT OF $17,600,000 IN ONE OR MORE SERIES TO PROVIDE FUNDS TO FINANCE THE ACQUISITION, CONSTRUCTION, RENOVATION AND EQUIPPING OF AN INDUSTRIAL REVENUE BOND PROJECT FOR USE BY ENDURANCE TECHNOLOGIES USA INC. OR ITS SUCCESSORS OR ASSIGNS; AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDENTURE, LEASE, BOND PURCHASE AGREEMENT, THE BONDS AND OTHER DOCUMENTS IN CONNECTION WITH THE ISSUANCE OF THE BONDS AND THE PROJECT; MAKING CERTAIN DETERMINATIONS AND FINDINGS RELATING TO THE BONDS AND THE PROJECT; RATIFYING CERTAIN ACTIONS TAKEN PREVIOUSLY; AND REPEALING ALL ACTIONS INCONSISTENT 178 - 281

WITH THIS ORDINANCE.

Ordinance No. 3101 - Pdf

**9. BOARD APPOINTMENTS**

**10. NOTICE OF PROPOSED ORDINANCE(S)**

1) There will be no public discussion.
2) A Councilor may ask staff for clarification on the proposed ordinance(s).

10.1. COUNCIL BILL NO. 26-010; ORDINANCE NO. 3102: AN ORDINANCE AMENDING CHAPTERS 34-38 OF THE LAS CRUCES MUNICIPAL CODE WITH THE CORRESPONDING ZONING MAP AS PRESENTED. (CASE NO. ZCA-25-01) 282 - 1179

Ordinance No. 3102 - Pdf

**11. CITY COUNCIL MEMBER BOARD REPORTS AND COMMENT**

**12. CITY MANAGER REPORT**

**13. ADJOURNMENT**

# MINUTES
## Work Session
**Tuesday, October 14, 2025 @ 1:00 PM**
City Council Chambers, City Hall

**PRESENT:** Councilor Johana Bencomo, Councilor Yvonne Flores, Councilor Becki Graham, Councilor Becky Corran, Mayor Eric Enriquez, and Councilor Cassie McClure

**ABSENT:** Councilor William Mattiace

**1. PETS OF THE WEEK**

**1.1**

Carol Nielson, Animal Services of the Mesilla Valley presented Pets of the Week.

**2. AGENDA ITEM**

**2.1 ADDRESSING HOUSING INSECURITY AND EXPLORING ALTERNATIVE LIVING OPTIONS.**

Natalie Green, Neighborhood & Housing Revitalization Administrator introduced the topic.

Jenn Lopez, Project Moxie gave the overhead presentation.

Councilor McClure asked going back to our comprehensive plan Elevate, I am just curious as to when this became shifted from housing diversity to crisis modeling? So, if we go to page 169, in Elevate. I am just going to do a little bit of reading. Housing diversity refers to the mixed of housing types such as single family detached, duplexes, townhomes, multi-family, mobile homes, etcetera. This goes back to a little bit to what you were saying to, with who is the audience for this, right? And it is a shifting in audience, right? As the baby boomers age and the millennial generation starts families, housing preferences are changing. Many empty nesters seek to downsize and live in housing types other than single family homes. Alternatively, many millennials want to live in a setting that is walkable and close to destinations which often times doesn't translate to single family neighborhoods, and we had goals

attached to that. We had timelines attached to that. I would like to see where that is going. This is approved, this was the plan. This is our comprehensive plan from 2020.

Jenn Lopez said I did not refer to your comp plan for this. What I was responding to was a conversation around homelessness concerns and then just giving you a framework for thinking about is our solutions if we are going to do them a crisis response solution or housing solution so it really wasn't in relationship to that.

Natalie Green said in terms of the comprehensive plan I would honestly defer to Community Development. They are really the implementor of market rate housing so if staff is going to do affordable housing we are going to do it and it is not to say that we can't do some of those. We are actually exploring townhouse kind of quadplex/duplex situation in the infill near Nevada Street. So, for our programs it really becomes an economy of scale, right? So, where that investment can be made, where there is funding sources. So, I think we talked about the LIHTC Program, that is the biggest funder of affordable housing in the entire country. So, I can take something like a million dollars or two million dollars and leverage that with LIHTC and get several hundred units. Where I can take that same amount of money and I can invest it in single family housing but at that point depending on the level of subsidy for each family then I am only building 10, 15, 20 so I think staff would need a little more direction on what affordable housing projects you would like us to work on, but the comp plan would be a whole different discussion. I will add to council that our consultant Root Policy has been reaching out to folks. They will be here next week. We will be hosting a community and housing needs open house in anticipation of redoing the affordable housing plan which is the plan that primarily guides the work that we do in housing and neighborhood services so that will also be an opportunity to put in some of those additional goals and while I am up there I will just tell you that Wednesday from 3 to 7 it is open house. People can pop in and out. We did post on the city's Facebook. I will make sure to send a separate email after this Work Session to you all and that will be at the Las Cruces Home Builders Event Hall off North Main Street and so we are certainly exploring single family, duplex, townhomes, but again it becomes for what population and we would evaluate how we finance those.

Councilor McClure said I am going to push back just a little bit because we actually do mention tiny homes in this, and I know we have met with Culdesac Tempe and I was looking to see what has been requested from some of my constituents and a lot of time it is car free. To a large degree it is a matter of what other models can we look at? So, we had discussions with that, funnily enough they were really interested in Las Cruces and part of this too was partnering with NMSU to provide additional off campus student, staff, and faculty options. Things like this is kind of what I wanted to see. I really do appreciate all of the information on the unhoused and I want to support that effort continually, but my question is why aren't we doing some of the things that we said we would be doing? We had two meetings with that and I would like to see where we can go with that, Action Plan 2 had adopt clear building standards specifics to tiny homes. Why are we not using some of the ideas provided by our Realize, that is what I would like to see as well.

Jenn Lopez said this is my last slide but I think this is where you want to go I hope.

So, you might see it in planning document or a strategy to do tiny homes, you still need all of these things to happen, right? This is sort of an outline of feasibility we do every time we do a project and I just think it is a great exercise leads to clarity of can we do this? For who? And who would be a partner and who is going to do it? We say get consensus on the problem you are trying to solve. Be clear on the target population to be served. So tiny homes solve what problem being very clear. Who in the community sees that problem the same way that you do? And what is that population that wants to have a tiny homeas a solution, right? We do a lot of environmental scans just like we did for the Work Session. It is not rocket science, it is just a lot of conversations to get. I am teaching a class up north with 12 communities and my first session I say you need to check your assumptions with community, right? And you need to do it in a way that you are going to end up with the right housing for the right population and it takes a little bit of time and then if everybody says yes, like my friend Chris I see a need for folks coming in from Durango who want a small rental to get, I see the things. He was willing to do it. The question becomes if you do tiny homes, who does it, right? Is there a provider and that is great then you have somebody to be a thought partner on it, right? I will be really blunt because that is my job. When I work with local governments I am trying to mitigate your risks. The best way to mitigate your risk is to make sure there is a partner that can take things on in case it is not you, right? Because you have limited staff capacity so who can do it? There is an operator prospective potentially, maybe not, right? So, my friend Chris just manages his own property, right? So, depends on who you are serving but just getting really clear on all those roles for your project and then how much will it cost? We have high level numbers. They don't mean anything. We can't really do feasibility, and we do this all the time unless we have a very specific site so that we can say yes it has water, it has sewer, it has zoning, right? It has all the things. We can put in actual cost to that. There is a pro forma to it. Who is going to build the tiny home? What is the cost rate? So, you really want to have a pretty strong pro forma about it. Is there an operating cost? So again, if you are not serving people who need services then the operating cost might be very low. It could be just like a some kind of HOA structure or whatever. And then where will your capital come from and how long will it take? So again, just a little feasibility check list. So, I think maybe the question is maybe this hasn't been flushed out.

Councilor McClure said part of the question too is that we do want to do a survey. I think the Mayor has talked about what does the status look like right now? We have a lot of unknowns. Partially because we don't share data. If you read siloed in there. It is absolutely siloed in there. We don't share data in meaningful ways that make people understand what we are doing. To a large degree we are doing a lot of good things but the thing is those 5,000 homes that we are still missing can look like a lot of different things. So multi-generational housing, ya I might have done tiny homes but I have my mom with me so I would like to look into can we do stipends on that? What does that kind of programing look like? And I think Realize has enabled a lot that we can do. And I would like to look into that.

Councilor Graham said I am not promising that I won't have other questions but just building on what Councilor McClure said, also thank you everyone for being here, those we have heard from and those we have yet to hear from. What Councilor McClure's comments are making me think about, it is so hard to characterize this

population because it is so multifaceted and I think right now I am thinking in the simplest terms, the very simplest terms we have a housed population and an unhoused population and then we have people who are kind of in this liminal space, housing and unsecure on the bubble and I think your presentation showed us very elegantly that that population is growing as we sit here, and I appreciate all of the materials you gave us in advance. As you say, who are we serving? Who is the audience as my fellow rhetorician was framing it and recognizing that for again my vocabulary isn't perfect here. When we are talking about a higher needs population, so people who are perfect for permanent supportive housing who need services, who need support, who need on site access to counselors, who need, we all need trauma informed care, but who especially in need of trauma informed care, permanent supportive housing is the answer. It also takes a really long time to make it happen and the concern that I am feeling while this liminal space of people who are housing insecure are potentially falling into being unhoused where are places that we can move faster to serve that population, also recognizing that once someone becomes unhoused their needs are going to rise precipitously because of the trauma, because I have learned so much in my four short years here about that often times it is about the effects of homelessness that people attribute to be the cause of homelessness. You became homeless because of substance use disorder, because of mental illness, when in fact it is being unhoused that leads to that situation so huge word salad to say and if I am mischaracterizing what you are saying Councilor McClure please jump back in but for a less high needs population where are spaces that we can move more quickly than permanent supportive housing tends to take?

Jenn Lopez said my response to that is people who have less service needs but are living on the edge, it is not another housing unit, it is an eviction prevention program or rapid rehousing. It is money, 9 months to 24 months of stability counseling, cheapest intervention you are ever going to find, so I think that is one piece of it, right? We are talking about your continuum, right? Again, we came in thinking there was more of interest of talking of the unhoused, but we can talk about across that continuum, and I am sure that staff has data on the different interventions across that continuum. What I am trying to say and this is my, well I am trying to be as helpful as possible is be prepared for the unhoused to grow. If you only have one thing to work on, be prepared for that to grow and look for resources to get ahead of that and you will save yourself thousands of dollars as a community if you can do that. To me this Work Session was on homelessness and if you want to do one across the continuum, I am sure Natalie would do that.

Councilor McClure said I really want to throw out things like we had a developer come wanted to build downtown. He wanted to build a grocery store, with livable spaces up on top. These are the things where maybe it is not something that everybody wants but somebody will choose it for themselves, and we are not giving them those options right now. That is what I would like to see. I am not finding that. I feel like Realize enabled a lot, right? I am beating this dead horse again, but the thing is look do we do accessory dwelling units and help with stipend. My neighborhood has big areas where I could put two more on there. I would love to do that. I would love to have that availability to do stuff like that where we are helping not only homeowners, but we are helping people who could live in more flexible living arrangements.

Jenn Lopez said we have done a ton of research ton ADUs. In Colorado we have gone a little hog wild. We have gone a little crazy on a bunch of interventions and we are learning in real time, again some of it has failed and I am happy to talk about that but ADUs we found that you can allow ADUs by right but you also have to provide financing for the home buyer to be able to afford to actually build the ADU, that is not a bad thing but again it is a great intervention model but it has to be a full package. So, you have to have funding and then the plans, right? You want to have pre-approved plans. That is sort of the trifecta so again I think there is pilots that could be adopted.

Councilor McClure said that is exactly what I am aiming for is pilots right now for different types of ideas that I know that our housing staff can come up with and I would like to see options like that.

Councilor Corran said I agree. I would love for us to keep expanding what is possible in terms of that end of the continuum and leveraging Realize and getting a public bank and trying to figure out ways to fund things and more systematic, localized approaches. Coming back to what you said about bang for the buck and what that is. My sense of what you are saying is keep on with considering how we are engaging in the building, right? Which is a different place in the continuum and really important but invest more resources in eviction prevention rapid rehousing. I am guessing landlord risk mitigation which isn't among these, but I think that is part of this package perhaps of just keeping those folks on the edge in whatever ways possible. I think we have some models for this but I don't know if they are places where we invest the most money so it sounds like if we are taking $2 million to say that we don't want more people to become unhoused in the next year those are the two places where we would put that most effectively and effect the most people and keep people put of the system.

Nicole Martinez, Mesilla Valley Community of Hope Director said I think I also thought that this was going to be about homelessness and housing and things like that so I am going to give you a little bit more information then probably you wanted on that but I think it is important that you understand how complex the data and the systems are and how much we do want to partner and I am not here for dramatic effect. I wanted to touch deeper on some of the things that you have heard from the consultants. I think a lot of times when people think about Community of Hope they think it is that place with people in wooden shelters that sometimes gets them into apartments. We are doing so much more than that and I want to kind of touch on some of those systems and data points because I think it is a lot more complex than people understand. A lot of times when you see me up here, I am just throwing data out because it can be hard to get that data to you in meaningful ways. So, I will be saying things like it takes us 26 days on average to house a homeless Veteran. Which I think is pretty significant for us but as you have heard earlier we are beholden to a much larger and complex data system called the Homeless Management Information System, HIMS. We have been using it since 2007 and 2008, and it is conky. Lately there is talk of creating a statewide data system that may be coming forward with all of the Governor's new initiatives towards housing and data and we are most willing to work with the state and how to best aggregate that data and share it responsibly. We are somewhat cautious about having a parallel data system because it is a lot to have

to enter into two systems. Especially when you are dealing with people in crisis, but we are hopeful that the systems will work together in some way to include all programs and all outcomes, not just our federal programs in HIMS. Currently we also utilize an internal database for all other programs that we operate. We have at least 20 different types of housing and homeless related programs. I also recently received some private foundation funding for us to build capacity in our data even more. So, we are internally creating a new sales force data collection program for the agency to help determine what our strengths and our gaps may be. One of the things we are excited from that is having kiosks in our lobby to help reduce some of the duplication that we might be having in our data. You have also heard about the coordinated entry system, and this is a little bit into the weeds, but this is a requirement for our federal funding. We are the grant recipient for the southern part of the state and this tool is used for prioritizing housing for people. So, my case mangers can't just say I like you. I think you are going to do a great job. You have to go through this whole coordinated entry survey and then people get prioritized and actually ranked. It is a sticking point for sure. How do you rank somebody's vulnerability and homelessness, but this is what comes from our housing funding. It has also been a large part of our success in that we can prioritize our own clients for housing immediacy. For example the New Mexico Coalition to End Homelessness does coordinated entry for most of the rest of the state so you take somebody in Gallup, that has to do their survey at an agency and that survey gets sent to the coalition, another agency far away has to get scored and then the number gets sent back, client gets that number and the clients gets to find a housing agency and figure out what voucher is appropriate for them. We are doing it all in house. They come in, they do the coordinated entry, they get prioritized, you're going into rapid rehousing, you're going into permanent supportive housing, you need onetime assistance. We can figure all of that out internally. You have also heard of continuum of care. The continuum care is a part of funds that are just like Section 8 from our Housing Authority but it is set aside specifically for people experiencing homelessness and I know Jenn touched on this. I apply for these funds and compete against the entire state and all of the agencies to annually bring in over at least $1.3 million in housing funding and staffing funding for Community of Hope.

I do want to switch gears a little bit because a few years back I heard someone at a summit say that people who work at agencies are working in silos. I said what? Who is doing that? Are we doing that? We partner with everyone on the campus. We work with FYI, and we have La Clinica de Familia, our links with grants and so many coalitions across the state and statewide initiatives, in meetings and while I do think that silos is a little bit of a buzz word, it is not without its dangers, and I don't want to be a siloed agency because lately I have seen a lot of new comers come in with ideas that to me have been siloed. There have not been ideas of collaborations. Some of them are ideas of the past that have been shown time and again to not work for communities but since time has passed and people are new and unfamiliar with best practices. They are a bit more willing to throw out some of these ideas. This can be the time for pilot programs, but they should be ones where they are strategic and we are talking to each other, not over each other and certainly not revisiting programs that do more harm than good. This is the time to utilize things that we know work and we know housing works and we know that the city is making great strides in this department and not just the city. We are partnering with the county, Jamie I know you are right behind me, on a new pilot for people exiting incarceration to help

homelessness, Chief I need to revisit that with you. I know we have had one conversation, we are getting closer, and I do want to keep that conversation going. We also work with assisted outpatient treatment programs and the RISE Program. I hear lately the return to the idea of the emergency shelter. The idea of discharging someone from jail to shelter, sending our families to shelter, getting people hidden off the streets, people exiting recovery to a shelter but the peril in this is that you are all saying let's keep people homeless and let's spend a ton of money to do it. I started at Community of Hope in 2006, to run the family shelter and it did keep people homeless. Staffing that was a nightmare. It was at the time that the director and I decided to ask HUD if we could instead move people out of the shelter and into their own apartments and I went out and met as many landlords as I could and I moved every single family out and I only had one family that returned and I said let's do more than this. Let's get people off the streets permanently. We did this ahead of the curve. A few years later HUD stopped focusing their funding on shelters and instead made permanent and rapid rehousing the focus but the focus has changed again. We have heard from our current federal administration that they want more shelters and not housing for people. Are we following that playbook when we know it is wrong? We all want a simple fix, but this is not that. Another shelter is what you do when you don't have what we have in Las Cruces. This new pipeline for housing. We must also increase the wrap around resources and housing including substance use treatment and mental health solutions. Solutions, what is working? We have heard consultants say things like Amador Crossing, also Camp Hope which still doesn't utilize any city funding and is affordable. We have also been utilizing motels. They haven't worked for every community. We have some really great motel partners but that should be something that's very short term. We served 166 people in motels last year with 489 stays. That is how many people you would have seen outside on the streets with our emergency responders going out. We weren't working with them in the shelters. We used county funding for motels and we used out family basis motel funds while looking for the long-term housing solutions. We also have the great work of the Grajeda/Huckabee Fund. I heard recently that it can be upsetting to have families living in motels but I would prefer to have a family there than sleeping outside or sleeping in their car. As long as we can make sure that is short term. Using motels also means that the hotel is paying their own staff. The city is not paying for the staff. The agencies are not paying for the staff. They are paying for those operations, and it could make better sense than possibly starting a new shelter. I also wonder who would run the shelter if we brought one in. Would their work orders get attended more quickly? Would the city bring in an out-of-town company to run it because we all know how long that has gone on in our state and in our own community? I think we should be looking at some motel conversions. Those are some new ideas. We also have the Community of Hope ten-year master plan so we can better respond to things like natural disasters, to refugees, unforeseen circumstances, the Kitchens have plenty of design opportunities at this point to address this. We are also talking of building a new Jardin. What will we do with our empty Jardin? We can do whatever we want. That makes since it is in the lease but we have ideas and we should be talking about those things and how we can smartly use the assets that we have. Some of my fears for the future, homeless prevention and permanent supportive housing are threatened to be cut. Last year we housed 2,869 people. That is including 1,004 children. If you reduce that you get the number that Jenn presented to you earlier over all. We are housing families and adults. We need to preserve what we have and if we use all of your funds

on things we know don't work, what have we done? How will we provide any safety net for those affected by these times? And just a comment when I hear things like what we are doing is not working. I heard that from the state level top, I have heard that locally. I immediately conjure the knowledge of how we got here, and I think it is important to drudge up a brief history lesson. In the 80's institutions were shut down. The promise of compassion of community-based clinics were supposed to be opened and that didn't happen. The institutions were indeed shut down but there was no safety net for folks who could not manage living on their own and still to this day struggle to do so. So, we are left with our most vulnerable on the streets. That is what didn't work. That and skyrocketing housing prices. On a more micro level I would say that what we are doing is working for many of the people, in fact our funding depends on that. Imagine if we hadn't housed over 2,000 people last year? We are meeting the thresholds and in most cases exceeding them. We also have programs like Mano y Mano and outreach which have been invaluable solutions in addressing issues of people surviving on the streets. We do not want to see people wallowing in substance use on our streets or even in the privacy of their own homes. I think about recovery all the time and that is why I constantly reach out to my partners at Amador Health, ideal options, La Clinica. I am not the recovery specialist but if I am not thinking of how to incorporate it, I am failing. We have ideas on how to bring more recovery units to our town and I do want to partner on this at least talk to me about it. Council please do not full steam ahead anything but let's keep talking. I am open for one on ones anytime or call me into the Mayor's office, whatever we need to do just know that I want to be part of the solution. I ask that you lift us up so that we can keep lifting up our community with hope.

That ends my actual comments, thank you but I do want address just a couple of things. I will say we awarded GRO money from the state and we got $200,000 which was discretionary funding. I asked for that funding for one time assistance and so I didn't have to use clunky old HIMS and we could just have housed people who were coming in. I need one month, I need three months and we spent that $200,000 that was for 2 years in less than a year. We over spent it and we ate a bunch of that money. It was very useful for people but it was hard to say no. That was something that where we had this pot of money and we made sure we could say but for our assistance that you are going to be able to stay housed on your own once we are done. I know that coordinated entry can take a long time once somebody gets scored to get into housing and so it makes it feel like there is a gap. I do understand that sometimes it could be really quick like our Vets it can be really quick, with like rapid housing that could be really quick. A lot of times it has been dependent on our landlords. We are so hopeful with Amador Crossing that that wait time will be much, much faster because we will issue those vouchers and they will get to go right in. Then with some of the other affordable housing complexes that are coming online. The Landlord Risk Mitigation Funding, that is what I applied for when we had ARPA funding that came through. So, we were the first in the state to start that type of funding and it has also been an invaluable resource. It has helped us with people who do come in who just might need that gap money before they need to have all the wrap around supportive services. You know, like somebody who has an authority voucher, they just don't have to have case management. They can take care of it on their own, but they are experiencing poverty. So, there are programs that we can do that get to that level if we can use some of these targeted programs that we are doing that aren't

monies from the city for landlord risk mitigation is quickly drying up. I did pitch it to Secretary Nair, and she has agreed that some of that funding is coming to Community of Hope and sees that it obviously has valuable place here in this community so that hopefully we can quickly address as many people as we can.

Councilor Bencomo said first of all I want to thank you for being here, just very happy to see and we have been worried about you, and I just am very genuinely happy to see you. Thank you for your comments, I don't have any questions particularly on that. I do want to talk about some specific things that you mentioned, Jenn but before I get to that I want to real quick address the conversation happening right now and if I may be a little honest I think I am a little bit surprised by it because I think it is incredibly important that we focus our time and resources and to diversifying housing options at all of these levels but particularly at the transitional supportive and up level. I think that is the goal. I think that is what Realize we hoped to do, right? I would love that and I think and I just want to zoom out a little bit because I feel like the last year or two there has been a push by some members of this council and some advocates for us to focus on crisis modeling, even if experts, even if data is saying that is the wrong way to go that ship has happened and I feel like, I don't agree with shhift necessarily, right? Sometimes I fear that the desire to do crisis response is more of a desire to fix the visibility of homelessness versus the root cause of homelessness. I think we have gotten stuck in that in the past. We did a shopping cart ban. There is political fodder about camping ban, like all of these things are sort of things that are going backwards and that are crisis focused as opposed to long term focused. I guess I am not surprised by this presentation that you came with some of those things because I have noticed that shift as well, but I do appreciate you naming the realities of those. That a lot often crisis intervention may seem like it is quick, but it is also very expensive, and it is not durable. I do appreciate that. That is all I will say there. I think with this conversation it feels like what needs to happen is that we just need to be clear and you did note that so then it might have been me from this report that it seems that we just need to be clear about the plans we have with the public and more direct about and I think even just from this conversation it is clear that we need to be clear on the road map to address homelessness right now in the short term and then that road map to transitional housing and then the rest, like how do we keep people in their homes and then how do we make sure that we are diversifying housing and I think it is important to name that across this entire spectrum there is still push back against all of these ideas. I am not entirely sure what some folks are looking for, but I just think we have to learn how to navigate that and talk about this a little bit better and part of it I think is a narrative shift. I do want to name three things in terms of pilot programs that I have heard already sort of like bubbling and I do think you know motel conversion, we have been talking about this for a long time. It felt like in the past maybe it wasn't the right time or it wasn't perhaps the right opportunity. I do feel like with the MRAs potentially that could be a really good opportunity or with some of the recent news coming out of some motels. I know you have good motel partners but there is also some bad motel partners and neighbors, and I think there is a pathway where we can sort of navigate and negotiate with those partners that aren't as good as neighbors to figure out a potential strategy. So, I do think there is something to be worked out there that I do hope happens in collaboration. I recently talked to Jardin de Los Ninos, and they are very sad that they couldn't be here today. They have some great ideas for some housing options for single moms that I think we should consider.

I don't want to speak on it because they are not here, and it should be up to them but again to me it is about following the lead of a service provider that already has a plan. That is just looking for additional funding and then I think if we were going to be any sort of program up it would be landlord mitigation. In your report you talk about, it says, in New Mexico 76.6% of renters that make less than $50,000 are cost burden, meaning they spent 30% or more of their income on housing cost such as rent or mortgage payments and utilities. To me those are the folks that are most at risk for becoming homeless and potentially an area where we should be hyperfocused on so that they don't lose housing and become unhoused. So, to me those are three takeaways that I am taking. I do want to say to the tiny home pilot, there was an organization last year, a non-profit that was thinking about doing something like this with like DACC and some high schoolers that would make the tiny homes and they were really interested in it and they were sort of really wanted to make it to a specific population which was actually youth exiting the foster system and what that could mean for building a community like that but they couldn't find a non-profit that was sort of willing to say ya that feels like it could be part of our mission and don't think that is like a shameful thing. I think people are being very clear about the increased burden that they have. I think people are being very clear about the federal landscape and what it is going to mean for a lot of our non-profit partners in the next few years and so I do think there is, people in our community have a lot of ideas and I want to make sure that we are fully exploring as many as possible and recognizing that none of them are like a silver bullet magic wand solution and that sometimes it does take time and while that is frustrating I think doing it right is better than doing it fast. I guess I didn't have any questions but maybe for next steps I would like to learn more about motel conversions and the way that we can do that responsibly for potentially that like transitional piece. I do want to know Natalie how much we are investing now?

Natalie Green said I will say that if you don't take into account Mano y Mano since most of the funding goes to the residents it is $281,250. That is what we invest in homeless services and that is inclusive of both Mesilla Valley Community of Hope and then some of the shelter services we fund through La Casa. I did want to take an opportunity, I think the piloting stuff can happen through the MRA so I just wanted to invite Chris up real quick to talk about Realize and opportunities in the MRAs because I think that is where those pieces really come out of, out of Housing and Neighborhood Services but in collaboration with Community Development, Economic Development and the MRAs.

Chris Faivre, Community Development Director said there is a lot of roads that kind of lead back through and to Community Development, starting with Elevate Las Cruces. There were definitely some things and goals outlined in Elevate that were taken into account when we went through Realize Las Cruces which for those in the audience that may not know that is when we redid the land development code that was adopted this past February it has been up and running this year and we have seen a lot of interest from our development partners that are looking at a wide range of things on both your traditional single family homes but also we are seeing a lot of interest in redeveloping within the MRAs and there is still some additional tweaks that we can make to Realize that will make that even easier and potentially more affordable. I was just having a discussion with Natalie about some options this morning so amongst staff we are continuously trying to work to find ways to further those developments

and I know Elizabeth Teeters and her team are working real hard on programing for those MRAs but specifically you know Realize a couple of things that really kind of lend itself to some of the redevelopment options I would say would be the increased density that we have allowed in all of the residential areas. Some of the restrictions that we have removed from lot sizes right so now you can increase that density in those sort of things work sort of hand in hand within the infill areas or those specific MRAs. One other thing I would just throw out there to as you all know we are just really getting the NAT Program off the ground but I do think that over the next few years we are going to see a lot of vacant land opportunities specifically in the MRAs that may allow some of these pilot projects to come to fruition whether it is working with some hotels that could be doing a little bit better or with land that becomes vacant through demolition however that process would work but I do think we are going to see some opportunities there whether it is for tiny homes or for other types of things but we have seen really good response from development community. They do seem very interested in redeveloping in the MRA, in the infill area and I would say even more than I was expecting within the first year and I know there was some uncertainty with Realize when it was adopted and then at the time it was put on hold but since the summer to now we have actually seen quite a bit of interest and would just encourage everyone to keep working together to keep making Realize the best it can be to address some of these housing options.

Mayor Enriquez said Natalie and Jenn thank you for the presentation, Chris thank you for your comments and for mentioning the NAT Program. That is also something that can be utilized and something in the future. Nicole, thank you for all that you do. I really appreciate everything that is going on there. One of the things, that last slide where you talk about feasibility and all those things. That is really the next steps that Councilor McClure had mentioned, the survey that is going to take place. We are going to gather some grant money that was provided to us from the government to do a survey and this would include the stakeholders in the community, which is Police, Fire, the hospitals, the Las Cruces Public Schools, our court system, recovery, non-profits, Community of Hope, absolutely for sure. As you mentioned it is only going to get worse. This is to put the resources where we get the best return on our investment and get some results for the problems that we see. Some people may already see it as a crisis and others may say it is a crisis ready to happen. Either way we need to do something, so this is to build on and also developers, partners will be involved there so that it is just not a city problem as an organization, it's a community problem and we all have to come together as stakeholders to see how we can combat this and come up with the best solutions and never, never am I saying that we are not doing good or we are not doing something right because we are and you are Nicole. It is how do we build on it? How do we supplement? How do we compliment? That is what we are trying to do and that would be the next steps to make sure where we are putting the resources it goes to something that is correcting the issues that are taking place because if you drive around the city you see people camped out throughout and we want to get them housed. We want to find them a place and that is what this survey will do with the stakeholders so as Mayor Pro Tem stated we want to get the community input. We want to find out what are you dealing with? What issues are you faced with and how we can support that? So that would be the next thing so again thanks for your presentation and adding some of those because we don't know what the answer is. Is it converting hotels? Is it tiny homes? What is the answer? Let's get

the input from the community and find out what are the issues and what direction do we go best into.

Cleave Hattersley, Member of the Public said I am a four-year resident here although my wife's family has been here for forty years or so. We lived in Austin where I was a member of the entertainment and political communities for about 45 years, involved in all sorts of homeless issues as well as political issues. I am a member of the Austin Music Hall of Fame and also managed Kinky Freedman's gubernatorial campaign, first candidate to ever get on the ballot as an independent candidate. I wanted to ask everybody in the room if you are familiar with the term flying signs? Can you tell me what flying signs means to you?

Councilor Graham said I believe you are referring to panhandling with a sign in hand.

Cleave Hattersley said that is correct and the fact that only one person actually offered that tells me that there is a certain disconnect with that community and the rest of us and I wanted to offer a suggestion. Some friends of mine and I have recently discovered a program being run by one man in Los Angeles, it's called Soft White Underbelly and what he has done over the last years is taken his own personal fortune and given all of these under served, underprivileged homeless people a chance to speak. He films them. He lets them tell their story. He asks them what their specific needs are. Now I intend to do that here in this community. It is private but if the city council understands what this does not only focusing and understanding these people better but also giving you a format for promoting because once the community sees real people just like the rest of us maybe with unfortunate circumstances when they tell their stories they feel better about doing something for them and that is what I think needs to be done and that is what we are going to do. I think it is here, the hearts of these people are in it. We congratulate them for doing the work they are doing but the money has to be used faster. It has to be used more efficiently and the best way to do it is to know whom you are serving.

Mayor Enriquez said I will add to that on the surveys, it is not only getting stakeholders but it is working with NMSU and their students and their research to create a survey so that we can go out to the individuals out in the public in the streets that are suffering at this time and find out exactly what is going on in their lives. So, there is another component to that survey as well.

Jeff Curry, Member of the Public said I am a for profit developer born and raised here in Las Cruces. We have developed over 70 properties in the southwest. We manage over 160 properties, all affordable housing. That is about 7,000 units and I have had the opportunity to see in multiple states developments and how they are handled. I wanted to start by just saying that Las Cruces is top notch. You guys are doing an amazing job. I serve on a federal home loan bank board called the Affordable Housing Advisory Council. I happen to serve with Nicole, and we get to tour in other states on what are considered best practices for dealing with homelessness and what they have shown us is exactly what Nicole was doing when dealing with homeless people. They are showing us what is the best practice and that is what Nicole is doing. Also, I want to commendate what Natalie has been doing, changing the zoning standards and

removing barriers to creating additional housing is great work and I want you to encourage you to keep on that road. For me I had one cautionary tale and that was that during the pandemic of course we were trying to address these emergencies of homelessness, I was brought into a project in Santa Fe and said what can we do quickly? Can we do a motel conversion quickly? We had tons of money, and the idea was to do a motel conversion. I said yes, absolutely, let's do this. It seemed like a slam dunk but because it was new, because we were dealing with groups of people who hadn't done this for years or didn't deal with housing it stagnated and I have now been working on this since our first award of $4 million in 2021 and now I have $11 million, I am still trying to close the final gap so that I can start construction now. It is not easy to do something new. What the city can do, which I feel like is the most bang for anyone's buck is to follow the process of ensuring that developers have an easy access to put on more housing but the federal tax low income housing tax credit program is the most bang for your buck to guarantee more housing in a community. That is my biggest recommendation for you and what I see from outside.

Jamie Michaels, Member of the Public said I am with the county's Health and Human Services Department. I am just going to start off with a little bit of data. The county over the last several years has invested just under $700,000 a year in homelessness services. It is a combination of county gross receipts, grant funding, and state appropriations and that money is awarded through Community of Hope through competitive RFP process and a contract we have with Community of Hope. So just under $700,000 kind of average over the last three years. We are as Nicole said in the process of developing a transitional supportive housing project. We looked at the data and during 2024 there were 450 bookings into the county detention center where the individual listed no home address, and they were misdemeanor crimes that they were booked into the detention center for. We also have been operating several different criminal justice diversion and reentry programs over the last eight years and collectively across all of those programs about half of the people in those programs are also experiencing homelessness and those programs are all for people who have substance use or other mental health disorders. So that is the combination of housing and mental health services and that is why we decided to do the transitional supportive housing. It will be on Motel Boulevard, right across from the County Government Center there is a vacant lot the county purchased with money from the Governor last year and we also received some grant funds from the state to develop the land to make a lot of outdoor living space and we will be utilizing, repurposing two modular buildings that were previously used by volunteer fire departments. Each of the units has four bedrooms and four bathrooms and then the common living and kitchen space so those will be moved from the outlying areas to that location and each will be able to house four people. At this point it is for adult males in diversion programs. There is quite a bit of space there for future expansion. That is the update on that. You also mentioned emergency housing like during a crisis either if we have more people here who are seeking asylum or in a natural disaster emergency. I don't have all the details but I know that the county is also working in creating those types of shelters out at the fair grounds so there are some resources for that type of emergency during a natural disaster emergency. I just want to make sure that is on your radar.

Eric Salcedo, Member of the Public said I am here on behalf of Rembrandt Alley, a

local architect that has done amazing work here in the city and he has a huge heart for helping and he wasn't able to make it today. He asked me to step in for him so here I go. This is my first time doing this and it is pretty interesting of how it works. Was there a time that there was a law against panhandling? That was enforced here, was there a law in Las Cruces that you couldn't panhandle? And is that law no longer in place?

Natalie Green said there is a First Amendment Protected Right so that people have the ability to hold signs. So, we can't regulate one group that holds a sign that says car wash versus help me. However, the city did institute some safety, but it is a time and place issue so there is safety precautions where folks cannot stand on medians of a certain width, with a certain speed and then there is a few other, they can't enter the lane of traffic but again it still falls under certain protections under the first amendment of the constitution.

Eric Salcedo said thank you for clearing that up. One of the reasons I ask is when they came up with the numbers of the homeless people did they take into consideration the professional homeless people that migrate with the sunbelt? That was my question. Is that there are people, they follow the weather and they have an endless summer but they don't want to be in a program that is going to help them. That is their lifestyle. They travel, they make a living out of it and it is a mix of the need and then there is the people that are taking advantage of the public's kindness, but does that get mixed in with the surveying?

Natalie Green said we have considered that. One of the things we are actually planning hopefully for the spring I would like to bring Greg Colburn, he did a data analysis on homelessness across the country and pulled a lot of data and did an assessment of those things and is weather or is it drug use, is it financial insecurity and he scatter plotted them all across the graphs. It is a great book. I have a copy should council want to see it and the one consistent data point is that the vacancy rate that homelessness is a housing issue. There was lots of communities that have great weather but have low levels of homelessness. There is lots of communities that have very terrible weather, for example Boston, freezing cold but yet has high rates of homelessness. So, there wasn't any consistent data that weather is a contributing factor to experiencing homelessness but yes and I don't want to take up all your time.

Eric Salcedo said really quickly, what I do have here is there is different recommendations from Mr. Alley. He took it upon himself to go ahead and actually draw these out and he has found areas within the city that are vacant that he has suggested that these could be possibly used for combatting the need for the homes and just to show a few there are starter 400 square foot tiny homes. He has it all scaled out here some townhouses, layouts and again he has got a huge heart to help our community, and he is a very notable architect and I will leave these with Natalie Green and if anybody would like to take a look at them. He does have a hotel style floor plan that was very successful in San Francisco, and it is detailed in this as well.

Natalie Green said I will just add real quickly, one of the projects we are doing we are actually partnering with Mr. Alley on the property on Nevada, so it is a piece of

property that the city had purchased quite a while ago that is not being used so we are working on the subdivision. So, we will take that piece of property and subdivide it into six lots and do some home ownership. We have also taken some of the NAT properties and we have been able to subdivide some of those. We will likely be coming back as part of the housing plan with some recommendations around infill and some of the fees for infill because that six lot subdivision if we weren't the city we would have incur probably about $30,000 to $40,000 worth of fees just to get started and so that could be a detriment to some development in the infill and the MRAs.

Kasandra Gandara, Member of the Public said I am a former Mayor Pro Tem and I am here to speak to you on an urgent strategic need to expand La Casa's housing capacity through 100+ bed in emergency and transitional housing facility. At this very moment 30 women and children are being sheltered in hotels and twenty more remain on a waiting list, waiting for safety and stability. In addition, La Casa is now housing several senior citizens, a growing and often overlooked population experiencing homelessness due to the limited income displacement or the loss of family support. To meet those needs we are proposing a comprehensive housing strategy. One that integrates emergency shelter, transitional housing and supportive living options. Our plan includes a conversion of underutilized hotels into trauma informed transitional housing and the expansion of our voucher program that provides flexible immediate housing options for families, survivors of domestic violence and seniors. In partnership with the county La Casa also is exploring the purchase of dedicated homes for seniors, which would allow us to serve at least 8 additional seniors who are currently unhoused or at risk of homelessness. This smaller community-based setting offers stability, dignity, and access to essential services such as health care, case management, and social connection. The broader vision is a state-of-the-art 100+ bed facility that operates with the continuum of care combining shelter, wrap around services, behavioral health and workforce development. This aligns directly with Dona Ana County Resilience Leaders framework and advances our shared goals of ensuring every resident, child, parent and senior have a safe place to live and thrive. We are asking for the city's continued partnership through planning, investment and interagency collaboration to move this vision forward from strategy to action. Together we can end the cycle of crisis and create a stronger more compassionate Las Cruces for all. Thank you for your leadership and for standing for those who need us most.

Natalie Green said we will just add that there are 8 vacancies at Pedrena so they are taking applications for seniors. So, we still have 8 units left at Pedrena and then we will be fully leased out.

Councilor Bencomo said I just wanted one more request and maybe you are already on it Natalie, and Federal Landscape Team that we have here at the city. I was very concerned about the Continuum of Care Funding. I feel like that is not something that is not being talked about. Obviously state legislators are addressing Medicaid and SNAP but I fear this is not being talked about so Natalie if there is an analysis that we can take and then sit down with Chairman Small around this I think it is very important before the thirty day so that it is honestly on their agenda if you haven't done this already.

Natalie Green said that was exactly on our mind. In fact, Jenn and I just had a conversation around Continuum of Care Funding so we would love to have that meeting with Representative Small. We are tracking what is happening at the Continuum of Care for those who aren't familiar, there is two continuum of cares of New Mexico. There is the Albuquerque Continuum of Care and then the Balance of State Continuum of Care. So, the Balance of State covers Las Cruces and then everywhere else in the state. I will say that I am the Chair of the Balance of State of the Continuum of Care of both the executive board and the membership board. We do track that fairly closely and will continue to communicate that back and forth.

Tony Watkins, Member of the Public said I am the Housing Director for La Casa, Inc and I just wanted to build upon the question about the continuum of care because we have about 66% of our voucher funding for rapid rehousing is Continuum of Care Funding and so the concern about that going away would hit us very hard. So, I just wanted to bring that down to the local level, that is what it would look like for us. It is about 45 vouchers, and we don't have enough vouchers to serve the people coming out of our shelter, so we have a 90 bed shelter. We have about 70 vouchers total and when you combine the risk of losing those vouchers with the kind of arduous process of the coordinated entry system you can see how people get hung up in that system and just not able to. Major capacity problems with that as well as needing more hotel vouchers. And I just wanted to thank you for the conversation. I think it is a great meeting of the minds and I look forward to being a part of it in the future and I am looking forward to that survey and especially as the gentleman said bring the voices of people with lived experience to bare on how we move forward because they are going to see things that we won't see.

Natalie Green said I will just do a quick shout out to Tents to Rents who uplifts the voice of the unhoused in our community.

Nicole Martinez said for the Continuum of Care Funding a lot of it is tied up in the coordinated entry grant that we have, rapid rehousing and then permanent supportive housing and some of what we have heard from what is being proposed from the federal is to do away with permanent supportive housing. That they would cap it then at two years and it is specifically funding that is set aside for people with disabilities, so it is terrifying to think that people who have been in the streets a long time because there is a chronicity number that they have to meet of how long they have been outside along with that disability and it can often take longer than two years. This is also something that has been threatened to happen to our Housing Authority as well. So, people being capped at two years, I don't like to be an alarmist but it feels like alarming times hearing things like that. So those are things that I am really worried about. If we do get capped on our permanent supportive housing programs, then that means that after 2 years you will start to see a lot of people going to the streets and we will need to work with the council on then turning that funding into homeless prevention so that people will stay in their homes and prevent their homelessness. We will label it however we need to but that is what we will be looking at the state level from our City of Las Cruces partners. I will say that it is obviously worth exploring the needs of La Casa at this point at this time too because Community of Hope does absorb many of their clients with a lot of our permit with rapid rehousing funds which we are here to do. They are people experiencing homelessness but to help them too.

Bolster their programs again and I am happy to be part of that conversation.

William Gilman, Member of the Public said I am a local resident, small business owner, parent. I wanted to comment on the report. Some of my noticing, I felt like there was not a lot of urgency in this report. It is a do nothing we have got it on lock even though people here saying all this funding is going away there is no saying we should do X, Y, or Z about that or what possible options are or how we are going to stitch together funding from philanthropic foundations, the state, the county, etcetera. It was also pretty light on data. Like in one of its key findings we should tell people more about what we are doing, okay well this would have been a great opportunity, right? We had a couple of months to put this report together. It also mentioned like Houston is a big success, sweet tell me more about that. Instead, I had to go research it myself. One of the things they did is they set up their own continuum of care for the region. It is three counties. I think we probably need that here. Probably just for Dona Ana County because we are 1/20th of the size of Houston and we need to serious talk about where are we going to find this money. Money everything like the report heavily focused on money but if we are talking about dignity and housing and human whatever, money isn't everything and also money is not always a cost if it is spent. We need to invest and we need to seriously think about how we are going to invest and yes we want to be strategic, and I think there is some great suggestions, getting a hotel. I think we also need to think about having multiple tiers of overlapping interventions. In Houston the average wait time for housing placement is 37 days. I assume it is significantly longer here. So, what are people doing for those 37 days or 60 days or whatever days that we have here? I think it might be worth investing in somewhere for them to be that is quality, dignified and safe until they can get placed in a longer-term care. If the message is that we need more outreach, these programs have been running for years. Where is that outreach? We have HIMS data I assume is being submitted to the federal government for those HUD funds, like why is that not available to the council now? Why is that not available to the community? Like what are we doing? That is the other thing that Houston really did, with that continuum of care that they built for their region they have their own data system that makes it very easy to identify people's needs, placements, services, etcetera, put everything together. The city has already made some pretty cool investments in like the Fire Department Mobile Integrated Health, the LIGHT team. Mobile Integrated Health in particular is right in line with this and so I think it is time to think about how are we going to invest. We don't say the Fire Department, money down the drain, bummer. We think of that as an investment in our community and in our safety and our stability and we really need to think about how we are going to do that and where else are we going to get matching funds for it.

Natalie Green said the only thing I will add before we wrap up is we did explore looking at our own continuum of care. We don't recommend it because we would actually receive less funds than we are getting now and it will also increase the workload because you are essentially running a crazy application and data and the coalition does it much better than the city could do it.

**2.2 AN UPDATE TO SHORT-TERM RENTAL REQUIREMENTS.**

Chris Faivre, Community Development Director gave the overhead presentation.

Councilor Flores asked how are you able to gather this information? Did you do a survey, or just word of mouth?

Chris Faivre said they do have tracking software that allows them to go out and track across all platforms and so that is where they compiled this information from.

Councilor Flores asked you want to have an ordinance that regulates that practice?

Chris Faivre said what the ordinance would do is just require them to register as a business and then also that would put them into system with Visit Las Cruces so that way the city can track them on the business side of things that way Fire can conduct proper inspections and then also that Visit Las Cruces can make sure that they are operating correctly and also make sure that they are paying applicable Lodger's Tax which they have to pay as well. So, it is tracking for the city, tracking for Visit Las Cruces as well.

Councilor Corran said thank you for this, we were just exchanging emails. Someone seemed to have a sense to what the rules were before they even came into play. I have heard and I think this is related to things that you chose to include and not include that most of these are small operations, right? These are not big swahts of places being bought up by corporations because that is not what the market demands, right? I think.

Chris Faivre said correct.

Councilor Corran said that is why those last things aren't included there. They could be an issue in the future but right now this is really individual people, maybe they own one or two or three in the city and are currently doing this as their side hustle I would imagine?

Chris Faivre said yes, that is my understanding of that as well. I am only aware that a few corporations that own multiple units.

Councilor Corran asked I would have a couple of quick things that I would add. I would expand, they are required to do the notification, correct?

Chris Faivre said that is correct.

Councilor Corran said I would like to expand the notification radius to at least 300, I am just thinking two houses down, three houses down perhaps. I would like the radius to be a little bit bigger because people are affected by this. I am all for making this happen as soon as we possibly can and thank you so much for working on it and thinking about it. My sense from people that are experiencing adverse outcomes as a result of short term rentals in their neighborhood is that they are being rented out basically for parties and those parties have hundreds of teenagers say at them. That is a source of a number of police incidents I think that have occurred, incidents of violence, certainly things like noise violations, I think folks have talked about this in the context of shootings and fights breaking out in the street, etcetera. So, I am

particularly interested in the occupancy limits and then also the consequences of what this means for folks. If the police come to someone's house because they rented a space for a house party and the police come, or they are cited in some way what is sort of the series of consequences that might occur? Are they allowed to continue? It really is one or two problematic folks who just do this all the time as their business model that the neighbors are really upset about. I would like there to be a model that is sort of educational. Sounds like the six-month implementation thing is really a powerful tool for that but then, I would rather folks experience the consequences pretty quickly so that it is not like this is the fifth shooting at this house that we have had maybe we should not let them have Airbnbs anymore. So, I am curious if you can talk about the follow up for what that might look like?

Chris Faivre said we do have and I am just looking at the draft of the ordinance in working with legal on this and the overnight requirements that we are recommending right now are two per bed plus an additional two people per unit so that sets the occupancy within that house within what you can have a reasonable number of bedrooms and beds and that type of thing and then specific to gatherings we put that no more than ten additional persons above the allowed number of renters. Again, those are recommendations. This is just a draft if you wanted to increase that a little bit you certainly could. The idea was to sort of mitigate that potential problem and then we are working with legal and codes to deal with the enforcement component on that on how that would work if you're cited once, cited twice, and three times so we are working all those requirements out right now. We can probably come back to that when we do first read or second read.

Councilor Corran asked I would love to see sort of a hierarchy of impact, right? If there is a shooting that is more serious than someone not having their pool fence locked, right? Those to me are very different sort of scales of accountability that are happening with this. I would just like to see that as part of that framework of accountability if possible. So, sort of what are the consequences and do they match the impact on the neighborhood and the people around.

Chris Faivre said we actually have some of that already outlined. First offense, second offense and at what point you know we would be revoking there, so as soon as we solidify all that then we will definitely have that we can make that a component of the presentation when we bring the ordinance back for sure.

Councilor Graham said similar kind of question. In terms of the notification process then would a neighbor who disagreed with this plan would they have any kind of recourse? I know that there is nothing that the city loves more than mitigating fights between neighbors and especially you specifically Chris Faivre, is it just a suggestion or is there something tied to that?

Chris Faivre said no. It is just a notification right now. So, they do have to notify, there is really nothing unless council wants to take that step to prohibit that. Right now, it is just a notification that it does, that there is a short-term rental within if we say go to 500 feet or something like that so. It is just to put them on notice.

Councilor Corran asked would it include the 24-hour contact information? That would probably actually be very useful if that were part of that communication.

Chris Faivre said we are going to require that they have all that information provided not only to us but to them when they do provide that outreach to their community.

Councilor Bencomo said I think this great. I am surprised that we don't have something like this already, so I think that feels really important given the disparity between the number that exists and the number that are actually registered. On the Airbnb side, is there a way for the city to have Airbnb before someone signs up their home to say hey these are this locality's requirement for business license?

Rochelle Miller-Hernandez, Destination Management Director said everything on Airbnb is very vague and a lot of times they tell you to contact your local municipality to be honest with you. Even on the taxes. So to address your comment earlier that you were surprised that we didn't have something. We did enforce the tax collection quite some time ago and then sent out notices and we do have some rules and regulations on our website, but this is going to be amazing. Thank you, Chris, for all your hard work on this. But even on the taxes it says that they are collecting taxes and that are being submitted to the municipalities, but they are not collecting Lodger's Tax. So, they are talking about gross receipts so I went in and calculated and double checked and they state when I contacted them as if I was an Airbnb owner that they need to include those cost in their rental fees and then submit them directly to us. At one time Airbnb was collecting and submitting for the municipalities and there is a couple of agreements still out there but they stopped doing that because the numbers weren't adding up correctly and it was causing a lot of problems.

Councilor Bencomo asked right now the responsibility of that is on the owner?

Rochelle Miller-Hernandez said yes, just like the hotels have to report, the owners do too. It is subject to an audit if we see any discrepancy. The software that we use does data mining. It is really interesting, and it can predict if you are renting your unit based on activity and then it would be up to you to show that you are not. If we say that you are not paying your taxes but if we have the indication that you are renting your property.

Councilor Bencomo said perhaps part of the education, if this should pass Chris, should include some of this additional information as well. Might as well get that out there. I just recently heard a legislator and again I have not been able to follow up on her with this or where she got this data but a legislator from Bernalillo County that was talking about like how much of a problem is in Bernalillo County that so many single family homes are owned by out of state corporations, like hundreds or something. I am curious in terms of like these 465 and you sort of said but I kind of want to touch back on it. You don't see that there is a pattern in Las Cruces for this?

Chris Faivre said I have not heard anything anecdotally but if the data bears out that there is a tendency one way or the other.

Rochelle Miller-Hernandez said no. When we went through the list the other day and I can get the exact numbers for you but there were very few that were owned, most of them were just one property.

Councilor Bencomo said I guess I say that in the midst of a housing crisis there is a difference between someone local having a business versus a giant corporation just buying up houses to make profit.

Rochelle Miller-Hernandez said I don't really think our short-term rentals are really affecting the housing crisis in our city.

Mayor Enriquez asked when someone comes in and opens a business say they fill out the business registration application and they have to have tax ID number or state number, is this the same thing? Is that going to be required?

Chris Faivre said yes, if you were going to a restaurant you need to show us if you have liquor license, so we are going to require all of that documentation. That specific information related to paying your taxes, the contact information, proof that you have reached out to your neighbors. We can work with them to provide them the list of people that fall within that radius but then they have to come back and show to us that is what they did provide. So, we are going to require all that but before we actually issue that business registration.

Mayor Enriquez asked the other one is notifications to the public or neighborhood or residents, isn't there already a practice in place for a zone change or a development that it reaches out to a certain area already?

Chris Faivre said yes, there is notification process that is done through a certified letter through the city. This would put the onus on the short-term rental operator versus the city taking it on. I suppose if we were finding sometime down the road that wasn't happening, we could come back in and tighten up those regulations up but that would be the recommendation now is that the operator does that outreach.

Mayor Enriquez said the message we don't want to send is that we are not business friendly and we want to make sure that someone loses an opportunity to supplement their income. This is not what this is about. I agree with it. I believe in it for fire inspections, building inspections, so it is safe for the neighborhood and it is safe for the tenants as well that are there because I know sometimes the building official will get complaints after the fact that there was no hot water or the AC unit didn't work and where does that go? So, this way we hold them accountable and become responsible owners. We are not limiting any potential income sources, we want to see people thrive but definitely we want everybody to be safe.

Padma Valdevit, Member of the Public said I am the owner and qualifying broker of Rethink Real Estate. I am here today because I have talked to Chris on the phone a number of times. For years we have been trying to figure out a way to pay the 5% Lodger's Tax. So, we are a real estate company that does property management, but we also do Airbnb management. So, I have a number of questions and issues that we

have been trying to work through as we try to become compliant with the ordinance that is actually been on the books for a number of years. I think 2020 is when the original request for us to pay Lodger's Tax was put into place. There is no functional way to do that so our issue has been, and we have been asking the city, we check in with them maybe every six months for the last three or four years because in order to charge that Lodger's Tax through let's just take an Airbnb, in order for them to do that we have to have the business license which we don't take issue with in order to put into the system in an Airbnb we have to have that number that corresponds with an actual account. So right now we have no way of charging that tax and then paying the bill. First of all it is not mandatory with the city so I don't know why people would add 5% arbitrarily to an Airbnb bill when it is not mandatory that they do so and that there is no functional way to do that. I did actually have somebody at the city tell me just come in and write a check. Taxes don't work that way. So, we can't just arbitrarily charge 5% on to our bookings and have Airbnb collect that and then what happens to it? So, we did a pilot property where we have registered it with the city, we are waiting and what we are doing is we are collecting the taxes and we did one business license and we are collecting the taxes, and we still don't know how to pay them. So that money is accumulating on that one particular property. We vary from about 18 to 25 properties at any given time that we are managing. In addition to that we have asked, and we haven't been able to get an answer yet to how does a property management company register all of the Airbnbs in their management system? Does every single one of those properties have to have a separate business license or can the business license come from Rethink Real Estate and then list all of the properties that we manage? Again, we don't have the problem with the tax being collected and we don't have the problem on paying a cost for each individual property, but property owners are not getting paid through Airbnb, our real estate company is. So how functionally does that work when the money is not coming in to the owner? That is a question that we have asked of both the city and the county and have not yet gotten an answer to. So, I think that in short what I am asking for is a clear path to be within compliance of this ordinance. Right now, we are not seeing that. We are not seeing it in the county, and we are not seeing it in the city and I think the part of what everybody is missing is the voice on the other end of this that doesn't have anything to do with business or making the property safe. It just has to do with the logistics of how this has to happen. So, I guess what I am asking for is a voice when you are deciding these from the other direction. The other thing is where this program where you charge Lodger's Tax to Airbnbs, if that were implemented it is huge amount of money for this city. Even if I estimate on the low side it is somewhere around $8 million to $9 million which this city needs so I am all for charging that but please I am asking for you to do it in a way that makes sense in the real world and for people who are, when I started doing this, I was doing this for myself. It was in my backyard so that was very easy. Over the years it has built into a business. That business employs ten people now. So, there is another side of this. It is not only just a backyard person with one listing that they are doing. There is a whole business that is helping to support Las Cruces and we just want the ordinances and how they are set up to make some common sense.

Rochelle Miller-Hernandez said just to address that. We do have a system set up and I would be happy to sit down and explain it. We do have a page on our website. We have collected in FY25 we collected $43,000 in taxes. We have already collected $10,000 this year. I don't know where the $9 million is coming from because we only

collect a little under three for all the hotel rooms that we have in the city. Maybe if you rented every Airbnb every night of the year but on average a hotel room is only rented 50% of the time and according to our calculations Airbnbs are only maybe 25% of the time occupied. So, I am not quite sure where that number is coming from but I would happy to look into it but we do have a procedure, and I would love to sit down and explain it to you afterwards.

Tony Watkins, Member of the Public said I am from La Casa. Just real briefly, I used to work with the continuum of care agency that kind of runs the whole thing in New Mexico. New Mexico Coalition and Homelessness and I have been with La Casa now five months, but it is great to be part of a community that are really putting their heads together and like congratulations on the 800 units on the pike, that is real exciting. I just wanted to kind of connect these two issues on the agenda because it strikes me and it is really just kind of out of the box thinking that did not come from me but imagine linking the auxiliary dwelling unit initiative that you are facing now with the homelessness situation and in the continuum of care we used to get points from HUD from municipal governments that would give preference to people experiencing homelessness in their Section 8 programs and imagine if we did something like that in Las Cruces with auxiliary dwelling units that we have somehow subsidized or found funding to encourage owners of auxiliary dwelling units to give preference to survivors of domestic violence.

## 3. ADJOURNMENT

**3.1**

**Councilor Yvonne Flores moved, seconded by Councilor Becki Graham, to adjourn at 3:13 p.m.**

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|---|---|
| **RESULT:** | **Carried** |
| **MOVER:** | Councilor Yvonne Flores |
| **SECONDER:** | Councilor Becki Graham |
| **AYES:** | Councilor Johana Bencomo, Councilor Yvonne Flores, Councilor Becki Graham, Councilor Becky Corran, Mayor Eric Enriquez, and Councilor Cassie McClure |
| **ABSENT:** | Councilor William Mattiace |

Mayor

City Clerk

# MINUTES
## City Council
**Monday, October 20, 2025 @ 1:00 PM**
City Council Chambers, City Hall

**PRESENT:** Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

**ABSENT:**

**1. OPENING CEREMONIES**

**1.1 PLEDGE OF ALLEGIANCE - COUNCILOR FLORES.**

**1.2 PRESENTATION OF CERTIFICATES OF APPRECIATION/PROCLAMATIONS - COUNCILOR FLORES.**

Mayor Enriquez recognized this year's Veteran's Parade Grand Marshals.

Councilor Flores presented Enrique Garcia, Ashley Echavarria, Sandra Day, and Ana Ramirez with a proclamation for Lights on Afterschool Day.

Councilor Flores presented Nicole Black, Chris Ortiz, and Randy Montoya with a proclamation for Careers in Construction Month.

Chenyu Liu and Matthew Saenz from the Las Cruces Public Schools gave a presentation.

Javier Caltenco, US Small Business Administration gave a verbal presentation.

**1.3 JOBS OF THE WEEK.**

Sarah Raney, Americas Job Centers of New Mexico presented Jobs of the Week.

**1.4 PETS OF THE WEEK.**

Carol Nielson, Animal Services Center of the Mesilla Valley presented Pets of the

Week.

## 2. CONFLICT OF INTEREST INQUIRY BY MAYOR AS REQUIRED BY LCMC SECTION 2-27 (E)(2)

**2.1**

None.

## 3. PUBLIC PARTICIPATION

**3.1**

Lynn Moorer, Member of the Public said you have received considerable evidence that the City of Las Cruces is not complying with the Lead and Copper Rule. It is preposterous that the Utilities Director says she believes they are meeting all requirements. When concerns were raised about departmental activities she instructed staff to remove records and manipulate data. When deficiencies were noted publicly regarding the city's false characterizations regarding installation dates in relation to the lead ban she instructed that all installation dates be disappeared. Some records say piping is non-lead based on installation after the lead ban but provides no record of the actual installation date. These characterizations have no credibility. When deficiencies were noted publicly about the city's inspections at the meter pit in manipulation of its inspection dates the Director instructed that all inspections dates be disappeared from the records. That the choices to hide incriminating information rather than fix the problem has potentially huge consequences for the city and the utilities services taxpayers rely upon. It also evinces an irresponsible callus attitude toward the most vulnerable water users in the city who may not understand the stakes involved and the implications for their health and that of their young children and unborn children. Water consumers in Las Cruces have a right to expect that the water they drink is safe and that the facts about city water management are not manipulated or falsified. The key issue of the city's inadequate investigation technique, just looking in the meter pit must be remedied. None of these investigations carried out so far as reliable. They must be redone using techniques acceptable to EPA. One technique isn't sufficient to determine reliably that the line is non-lead. See Handout 1. It is ironic that those of you who profess great concern for the less privileged in our community, especially people of color evince no concern for them and even the city leaves their mobile homes off of the inventory. Much less investigate their pipes. When Las Cruces Utilities can't be bothered to make sure Spanish only speakers know immediately how to translate the website into Spanish and when the Deputy Director of Regulatory Compliance falsely tells callers that there is no assistance available to folks that don't have the financial resources to replace their pipes. We ask those of you who demonstrate cozy relationships with staff and parrot their falsehoods, who were you elected to serve? To those who haven't studied or requested any of the additional documentation we presented demonstrating the validity of our concerns and proving the city's pattern of false statements, we ask why not? One councilor said she just prefers to trust staff. That is not good enough. You were elected to serve ordinary citizens, the riff raff, the taxpayers of Las Cruces. You weren't elected to avert your gaze from non-compliant substandard staff actions that harm the public.

Liz Rodriguez-Johnson, Member of the Public said our concerns persist with respect to Las Cruces Utilities' substandard public outreach and lack of responsiveness to questions regarding the Lead and Copper Rule that have been outstanding for many months. EPA does actually require water systems to engage in robust factual communication with the community they are supposed to serve. Where are the answers to the questions we posed at the October 6th meeting? We asked that they be posted on the website. As of this morning no answers have been posted. We continue to expect answers to all of our previously annunciated questions plus the questions today to be posted on the website by the next council meeting November 3rd. EPA requires water systems to track lead connectors in their inventories and replace them when they are encountered. As you can see in Handout A, page 1. Where in Las Cruces Utilities' inventory are lead connectors tracked? None are evident in the online inventory even though investigation reports note that the presence of galvanized connectors exist on some piping. See Handout B. Keep in mind that the galvanized designation means there is some involvement of lead. How many galvanized connectors has the city replaced? Where do each of these replacements show up on the map if they are not in the inventory of the map, why not? The New Mexico Finance Authority which handled a $15 million grant for the Drinking Water State Revolving Fund the city agreed to at the last meeting determined the amount the city must repay in part of the categorization of the city's severely disadvantaged. How much of this $15 million grant will be used to specifically assist disadvantaged people in light of the city's decision to disappear all disadvantaged community designations from the inventory, how is it determining who is disadvantaged, what are the criteria? Does Las Cruces Utilities intend to charge customers for the cause to replace any part of the service line? If so, how does the city intend to assist customers who are unable to pay to replace the portion they own? EPA requires that the city spell this out, see Handout A, pages 3 & 4. Which water engineers at Las Cruces Utilities are fluent in Spanish? Which water managers at Las Cruces Utilities are fluent in Spanish? Which water technicians who investigate pipes are fluent in Spanish?

Rod Gajewski, Member of the Public said I live in the county. The Mescalero Apache and the State Land Office are attempting to get 400 acres of landlocked land that is in the county but the traffic flow in the infrastructure involves the city. That is why I am here with the city. Council Member Mattiace would be responsible for the Las Alturas Drive.

Lucas Herndon, Member of the Public said I am a resident of District 2. Once again in front of you in the wake of a deadly police killing in our city. I will take this opportunity to remind you that New Mexico is in fact the most dangerous state to be a civilian and be killed by police. We led the country last year and as of this year police have killed four more people in New Mexico through September in 2025, compared to the same period last year. Meaning once again we will be the most violent state to be a citizen and be killed by the police in the country. Las Cruces Police have killed at least four people in our city this year. You can talk about what justifies killing all you want, and the police have a standard operating procedure which the Chief has become very adept at repeating and parodying and the press loves to pick up. There is a member of the press here today that I generally hold in high regard and will assume that his editors chose the headline for his story because I personally feel that he is better at

his job then what the headline gives, that a man who was approached in his car by an armed cop yelling at him was “pursuing” that officer with a hammer. That man was sitting in his car and a man with a gun came to his door and opened the door. I am a certified firearms instructor in the state of New Mexico, if somebody that I taught was in an altercation and pursued the person pressing the issue to their car and opened the door they would be found guilty in a court of law. But not the police. The police, its standard operating procedure. So, if you are tired of me coming and yelling at you about the cops killing people do your job and hold the cops accountable for killing people but for now, I will take the uncomfortable stares and the whisperings. I will take the videos of me posted about me online. We are citizens of this country. The cops theoretically are here to protect us, not kill us. But as long as we live in this state that has the most likely outcome of an altercation with the police of me being killed by them, no, unacceptable.

Derrick Pacheco, Member of the Public said today I want to speak about accountability. Not only about how we protect our rights and our history but in how we uphold the rule of law itself. Over the past several months citizens like myself have worked tirelessly to uncover and document serious issues surrounding Project Jupiter, the proposed data center development. Through hundreds of hours of public records request, video documentation, and cross referencing county and state filings we have uncovered a trove of evidence showing a clear pattern of neglect for due process, missing documentation and potential conflicts of interest within the approval process. Because of this I have filed a petition for judicial review this past Friday in District Court. This isn’t about obstruction, it is about ensuring that the laws meant to protect the public are actually followed. When development outpaces accountability democracy itself is at risk and these same themes, loss of oversight, disregard for heritage, an erosion of trust connect directly to other troubling actions in our city. We are installing Flock surveillance cameras across Las Cruces. Systems that track every passing vehicle and store data indefinitely. These cameras may seem harmless, but they raise serious Fourth Amendment and Civil Liberty concerns. Across the country communities are rejecting them once the public realizes the risk of abuse, hacking, and unlawful tracking. We cannot trade privacy for a false sense of security. At the same time, we are witnessing the demolition of historic adobe homes in our protected districts. Homes tied to the Camino Real de Tierra Adentro, the very trail that gave birth to this valley. These structures are irreplaceable cultural assets. Destroying them to solve vagrancy or clean up a neighborhood is short sided and morally wrong. So, in this same breath that we should be protecting citizens from unlawful surveillance and honoring our heritage we should also be demanding transparency and integrity in every public project including Project Jupiter. Las Cruces stands at a crossroads between freedom and overreach, between preservation and demolition, between blind approval and lawful review. I urge this council to stand with its citizens, to support the judicial review process, to halt Flock camera installations, and to protect our historic adobe districts. The people of this city are paying attention, documenting, and determined to ensure that truth and law prevail.

Connie Chapman, Member of the Public said I am a resident of District 4. This statement concerns the fatal shooting of Mr. Mullin on October 9th. I feel it is important for the questions I raised to be made public. The officer involved incident task force that is officially reviewing the fatal shooting is composed of totally other law

enforcement agencies and I doubt will raise the same questions I have as a concerned citizen. At the press conference a reporter from El Paso KFox News 14, asked Chief Story about the training officers receive with regard to the use of lethal force versus non-lethal force in such situations. Chief Story explained, “that as a general rule an officer would not use a less lethal tool for a lethal encounter when they are by themselves. So, if there had been multiple officers there might have been different options but there were not.” What does Chief Story mean by different options? That the death of a human being might have been preventable with just more officers on the scene? If that was the case and what I want to understand is then why was the officer in such a rush when Mr. Mullin was he a threat while sitting in his car with his doors closed when the officer arrived? The officer orders the man out of his car, the officer opens the car door not Mr. Mullin. What was the hurry or the purpose of having Mr. Mullin exit his car immediately. Mr. Mullin was dead within a minute of the officer’s arrival. So again, what was the rush?

Jim Hoerst, Member of the Public said I just wanted to call you attention to the No Kings Protest yesterday. It was a demonstration of the political sympathies of this town. I was there and I estimate that the crowd of well over 1,000. I know how difficult it is to get 1,000 people to do anything politically even as simple as to send an email or to register to vote or something like that, 1,000 people were at the demonstration yesterday. Their political sympathies are liberal. Nobody was paid in spite of the claims by our President, who is a pillar of integrity as you all know. He wouldn’t lie to us, he wouldn’t just make stuff up against his opponents. He says we were paid. So, I want to know where my check is? As far as I know no one has gotten any or has every gotten any at any of those political events. You need to know your constituents generally speaking are sympathetic to liberal causes and it is right that you are too.

## 4. READ CLOSED MEETING STATEMENT

### 4.1 READ OCTOBER 20, 2025 CLOSED MEETING STATEMENT INTO THE RECORD.

The Las Cruces City Council met in closed session and only discussed those limited items as stated in the posted notice:

1. To discuss pending or threatened litigation as it pertains to the Walnut Skate Park, which is closed pursuant to NMSA 1978, Section 10-15-1H(7).
2. To discuss bargaining strategy preliminary to collective bargaining negotiations between the policymaking body and a bargaining unit representing the employees of that policymaking sessions at which the policymaking body and the representatives of the collective bargaining unit are present, which is closed pursuant to NMSA 1978, Section 10-15-1H(5).
3. To discuss the purchase, acquisition or disposal of real property or water rights by the public body, which is closed pursuant to NMSA 1978, Section 10-15-1H(8).
4. To discuss pending or threatened litigation regarding Olyvia Dominguez v. the City of Las Cruces, and Joe Hernandez, D-307-cv-2024-00746, which is closed pursuant to NMSA 1978, Section 10-15-1H(7).

## 5. ACCEPTANCE OF AGENDA

**Councilor Becki Graham moved, seconded by Councilor Becky Corran, to accept the agenda as presented.**

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| **RESULT:** | **Carried** |
| **MOVER:** | Councilor Becki Graham |
| **SECONDER:** | Councilor Becky Corran |
| **AYES:** | Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores |

## 6. CITY COUNCIL MINUTES

### 6.1 WORK SESSION OF SEPTEMBER 22, 2025.

## 7. RESOLUTION(S) AND/OR ORDINANCE(S) FOR CONSENT AGENDA

### 7.1 RESOLUTION NO. 26-051: A RESOLUTION TO AWARD A CONTRACT FOR THE MANAGEMENT OF THE LAS CRUCES CONVENTION CENTER TO SMG OF WEST CONSHOHOCKEN, PENNSYLVANIA, FOR A TERM OF FIVE (5) YEARS, IN AN AMOUNT NOT TO EXCEED $120,000 ANNUALLY SUBJECT TO ANNUAL ADJUSTMENTS BASED ON THE CONSUMER PRICE INDEX, PLUS THREE PERCENT (3%) OF GROSS FOOD AND BEVERAGE SALES, SUBJECT TO APPROVED BUDGET APPROPRIATIONS (PROCUREMENT NO. 24-25-001).

### 7.2 RESOLUTION NO. 26-052: A RESOLUTION AUTHORIZING AN INCREASE IN THE ANNUAL NOT-TO-EXCEED TOTAL OF EXISTING CONTRACT PURCHASE AGREEMENT 23-24-078 WITH ENCHANTED TECHNOLOGY SOLUTIONS, LLC OF ALBUQUERQUE, NEW MEXICO TO $400,000, SUBJECT TO APPROVED BUDGET APPROPRIATIONS.

### 7.3 COUNCIL BILL NO. 26-007; ORDINANCE NO. 3099: AN ORDINANCE AMENDING CHAPTER 2, ARTICLE IV, SUBDIVISION XVI. - HISTORIC PRESERVATION COMMITTEE OF THE LAS CRUCES MUNICIPAL CODE (LCMC) TO REFLECT CHANGES FROM REALIZE LAS CRUCES (ORDINANCE NO. 3090).

## 8. RESOLUTION(S) AND/OR ORDINANCE(S) FOR DISCUSSION

### 8.1 RESOLUTION NO. 26-053: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT FIRST QUARTER BUDGET ADJUSTMENTS FOR VARIOUS CITY DEPARTMENTS THROUGH AN AMENDMENT TO THE CITY'S ADOPTED FISCAL YEAR (FY) 2025-26 BUDGET.

Vanessa Perez, Budget Analyst gave the overhead presentation.

Councilor Flores asked when all these funds are being allocated at this point, were they unforeseen at the time that the budget was presented to us initially?

Vanessa Perez asked are you referring to one in specific or just generally?

Councilor Flores asked just generally because this says new allocations, right?

Vanessa Perez said some of them are. Some of them are coming in as rollovers for vehicles what weren't received last year. Some of them are new allocations and then some of them are just adjusting our balances to reflect accurate remaining funds from different projects or for different grants.

Councilor Flores asked some if it is new money and some of it is money that was already allocated?

Vanessa Perez said that is correct.

**Councilor Becky Corran moved, seconded by Councilor Becki Graham, to Approve Resolution No. 26-053.**

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|---|---|
| **RESULT:** | **Carried** |
| **MOVER:** | Councilor Becky Corran |
| **SECONDER:** | Councilor Becki Graham |
| **AYES:** | Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores |

**8.2 RESOLUTION NO. 26-054: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT GRANT AWARDS FOR VARIOUS CITY DEPARTMENTS THROUGH AN AMENDMENT TO THE CITY'S ADOPTED FY2026 BUDGET.**

Gabriela Prats, Grant Manager gave the overhead presentation.

**Councilor Becki Graham moved, seconded by Councilor Johana Bencomo, to Approve Resolution No. 26-054.**

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|---|---|
| **RESULT:** | **Carried** |
| **MOVER:** | Councilor Becki Graham |
| **SECONDER:** | Councilor Johana Bencomo |
| **AYES:** | Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores |

**8.3 RESOLUTION NO. 26-055: A RESOLUTION AMENDING THE FY2026 - 2031 CAPITAL IMPROVEMENTS PROGRAM.**

Cynthia Alamillo, CIP Manager gave the overhead presentation.

Katherine Harrison-Rogers, Parks Plan and Construction Administrator continued the overhead presentation.

Richard Hanway, Transit Director continued the overhead presentation.

Councilor Bencomo said I was looking for our last emails about the High Noon bathrooms. Those have been reopened, right?

Katherine Harrison-Rogers said as I understand it there were some plumbing issues associated with the men's restroom in particular and just the flushing of the urinals. They were going to replace some parts, but I do believe that they have been opened. I can't one-hundred percent conform that but I do believe they have been opened, and they are making those adjustments as needed.

Councilor Bencomo asked can you just follow up with an email?

Katherine Harrison-Rogers said I will absolutely follow up with an email.

Steven Bingham, Parks and Recreation Director said yes, those restrooms have been open, but they did close them down today through Wednesday to go in and replace and warranty some of the equipment. They have been open, but they are going to be shut till Wednesday.

**Councilor Becky Corran moved, seconded by Councilor Johana Bencomo, to Approve Resolution No. 26-055.**

| | |
|---|---|
| **RESULT:** | **Carried** |
| **MOVER:** | Councilor Becky Corran |
| **SECONDER:** | Councilor Johana Bencomo |
| **AYES:** | Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores |

**8.4 RESOLUTION NO. 26-056: A RESOLUTION TO ENTER INTO AN EXISTING CONTRACT PURCHASE AGREEMENT FOR BODY CAMERA AND NONLETHAL ELECTRICAL CONDUCTED WEAPONS (TASER) AND DATA STORAGE SERVICES FOR THE LAS CRUCES POLICE DEPARTMENT WITH AXON ENTERPRISE, INC. OF SCOTTSDALE, AZ IN AN ANNUAL NOT-TO-EXCEED TOTAL OF $2,500,000, PLUS APPLICABLE TAXES, SUBJECT TO APPROVED BUDGET APPROPRIATIONS. (PROCUREMENT NO. 25-26-033).**

Virginia Barela, Buyer II gave the overhead presentation.

Councilor Flores asked all of this is to upgrade what we already have? Or is it adding in anticipation of more police officers?

Virginia Barela said the contract will be to maintain our existing contract for all the equipment we currently have, to upgrade the equipment we have as it meets its useful life cycle, to pay for the management and software system for it, and then to grow on the program as the department grows in future years.

Councilor Flores asked it is a data storage issue?

Virginia Barela said it is not necessarily a data storage issue. Every year the cost of this equipment gets more expensive. We have to add it as we add more police officers and then when new equipment comes out and new items come out that LCPD can use in services to conduct their jobs we want to be able to have the ability to

increase on the program utilizing the equipment that is offered that will interconnect with our current equipment.

Councilor Flores asked when we have our big summit and go through like in December or January when we go through budget allocations and all of that is this something that has come up inadvertently or is it just something that has to be addressed at this point? Was it anticipated or how does that work because this is like an end of year adjustment to our last years budget?

Virginia Barela said so what this contract would be doing would be setting a capping limit for how much can expend. So, every year with the new budget that is presented to council if new equipment is going to purchased, if they are going to expand on the program, they would have to present that to council and get it incorporated and approved through their budget in order to purchase the new equipment. This is just setting their limit on how much they can spend on any given year.

Councilor Corran said I think we talked about this a while ago this is something we approved a few years back in this context but I do think it is a great example of things, people not necessarily understanding, this is related to a state law that requires certain types of things and when that law was passed how much funding did they give us to fulfill this law? I think none if I remember correctly. This is the kind of complicated relationship we have with when people make new laws and sometimes it is us and sometimes it is others and sometimes you know it is compelled and sometimes it is the right thing to do and all of those things where we also understand that there has to be. This is the classic definition of an unfunded mandate from our state. I would just like to name it as such and if you don't follow local politics, I think it is an interesting example of such. So, in addition to us wanting to do what is right I think this is an interesting conversation in that context. I just wanted to point that out as a thing that we often face in local government.

**Councilor Becki Graham moved, seconded by Councilor Becky Corran, to Approve Resolution No. 26-056.**

| | |
|---|---|
| **RESULT:** | **Carried** |
| **MOVER:** | Councilor Becki Graham |
| **SECONDER:** | Councilor Becky Corran |
| **AYES:** | Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores |

### 8.5 RESOLUTION NO. 26-057: A RESOLUTION ADOPTING THE SMALL BUSINESS SAFETY IMPROVEMENT PROGRAM.

Irene Parra, Business Development Administrator gave the overhead presentation.

Councilor Flores said it sounds wonderful and it's an MRA so there has been a lot of activity to improve the MRA or whatever. I'm glad that Officer Joy is on this because she is a real plus to our community in so far as seeing our police officers as people who are there to protect us and our friends actually and neighbors but I am just curious about the keeping an eye on how successful it is and how the information will be gathered and what sort of I suppose maybe in the making or already sorts of

indicators that you are expecting to keep an eye on to see if it so is that in the making or is this all hypothetical at this point or is it ready to plug it in?

Irene Parra said yes, there are metrics that we are building in place right now. Part of that is going to be a pre-assessment that we are going to include once a business is deemed eligible. We will be sending them a questionnaire to identify sort of what the current state of thinking is if things are for them when the program is at its completion we can go back and do a post assessment to measure what the state of their business is as an activity at that point. So, we have point of measure. So, we will be taking information at the beginning of the program and again at the end and comparing that and using that as measures if we are able to continue this program in ways that we can improve it.

Councilor Flores asked have all the businesses in the MRAs been advised or are on notice of this opportunity?

Irene Parra said part of this came from feedback directly from businesses from within the MRA.

Councilor Flores asked those are the businesses that will probably benefit from it?

Irene Parra said correct.

Councilor Corran asked we are approving this funding generally, I am curious in terms of the MRA, the model for funding our MRA activities, this is not coming from that yet, right? We don't have any revenues from the MRA officially?

Irene Parra said you are correct.

Councilor Corran asked I would also like to know just in terms of the evaluation and understanding what the impacts are, I would also like to know how we can think about this in a sustainable way and then expand it to other MRAs if that is sort of warranted based on what the conversations happen? I know we are all anxious to get the MRAs rolling but I'm curious of the timing relates to that or not at all or how we might reflect when that actually has become a source of income for us?

Irene Parra said I think that given the information that we received during the stakeholder engagements there does seem to be a need to want to address this and so rather than waiting for those funds to come in we wanted to take this opportunity with the funds that we do have to start this program and build on it based on lessons learned.

Councilor Corran asked we don't know when the MRAs are going to start bringing in money or do we? That is what I would love to know more about.

Celina Morales, Economic Development Deputy Director said right now we don't have funds. This is where we are still setting the baseline and then once we have the

baseline then we will be able to accumulate the property tax and GRT for that. So, we don't have anything for that right now. We are constantly looking for grants and things like that to help supplement meanwhile and whatever you want to give us we will take so that is kind of what we are waiting on as well.

Councilor Bencomo said I know this was part of my budget priorities last year. What I wanted to say actually was that I really appreciated how quickly you all moved on this and how quickly you all came up with an idea for us to utilize these funds that felt really responsive to the community's needs. So, thank you very much. I don't know why I didn't think of this before, I think maybe page 7, I don't remember where you have some of the requirements. I was thinking about the 40 employees, I am curious of how you all treat things like Walgreens, non-corporate, you're filtering out any sort of franchise, fast food chain restaurants and things like that?

Irene Parra said correct, we are.

Mayor Enriquez said thank you again for all your efforts and your works and to this. Lieutenant, just a quick question on this. What does staffing look like right now for community engagement? It is just more duties assigned. I know you have a got a lot of them but how does it look right now?

Joy Wiitala, Police Department Lieutenant said I am short one community outreach officers, so I think that looks pretty darn good.

Mayor Enriquez asked what is the total right now?

Lieutenant Joy Wiitala said staff wise right we are at 8. That includes Sergeant and all of the officer and right now we are at seven versus the eight.

Mayor Enriquez said we were talking about sustaining and growing and those types of things and making sure that we are moving in the direction that doesn't limit our resources as we move forward.

**Councilor Becky Corran moved, seconded by Councilor Johana Bencomo, to Approve Resolution No. 26-057.**

| | |
|---|---|
| **RESULT:** | **Carried** |
| **MOVER:** | Councilor Becky Corran |
| **SECONDER:** | Councilor Johana Bencomo |
| **AYES:** | Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores |

## 9. BOARD APPOINTMENTS

**9.1**

None.

## 10. NOTICE OF PROPOSED ORDINANCE(S)

1) There will be no public discussion.

2) A Councilor may ask staff for clarification on the proposed ordinance(s).

**10.1 COUNCIL BILL NO. 26-008; ORDINANCE NO. 3100: AN ORDINANCE AUTHORIZING THE CITY TO ENTER INTO A FRANCHISE AGREEMENT WITH RIPPLE FIBER NEW MEXICO LLC ("RIPPLE"), TO AUTHORIZE THE CONSTRUCTION, OPERATION, AND MAINTENANCE OF A TELECOMMUNICATIONS SYSTEM FOR FIBER INTERNET WITHIN THE CITY.**

Council agreed to bring it forward.

**10.2 COUNCIL BILL NO. 26-009; ORDINANCE NO. 3101: AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF CITY OF LAS CRUCES, NEW MEXICO TAXABLE INDUSTRIAL REVENUE BONDS (ENDURANCE TECHNOLOGIES USA INC. PROJECT) IN A MAXIMUM PRINICIPAL AMOUNT OF $17,600,000 IN ONE OR MORE SERIES TO PROVIDE FUNDS TO FINANCE THE ACQUISITION, CONSTRUCTION, RENOVATION AND EQUIPPING OF AN INDUSTRIAL REVENUE BOND PROJECT FOR USE BY ENDURANCE TECHNOLOGIES USA INC. OR ITS SUCCESSORS OR ASSIGNS; AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDENTURE, LEASE, BOND PURCHASE AGREEMENT, THE BONDS AND OTHER DOCUMENTS IN CONNECTION WITH THE ISSUANCE OF THE BONDS AND THE PROJECT; MAKING CERTAIN DETERMINATIONS AND FINDINGS RELATING TO THE BONDS AND THE PROJECT; RATIFYING CERTAIN ACTIONS TAKEN PREVIOUSLY; AND REPEALING ALL ACTIONS INCONSISTENT WITH THIS ORDINANCE.**

Council agreed to bring it forward.

## 11. CITY COUNCIL MEMBER BOARD REPORTS AND COMMENT

### 11.1 COUNCILOR MCCLURE

I just wanted to bring up that I have been going to the Criminal Justice Coordinating Council and I would invite members of the public to also attend that. The next meeting is November 19th, 2025, if anybody would like to come. It is a noon meeting. You are going to have judges there, it kind of skews heavy to law enforcement. I have learned a lot. I don't know much about the criminal justice system because I guess I have been a goody, goody for most of my life. It has been a learning experience. We have an 88-page interview with a stakeholder document that has been incredibly helpful to kind of parse out some of what the environment looks like here in Las Cruces but getting feedback is always helpful or we just kind of just stare at each other and I would appreciate not doing that too. We are working on a strategic plan so this would be a ground floor-level sort of thing if you are wanting to get involved and it is just an hour. It is at the Magistrate Court.

I would also like to make a pitch for our Regional Dispatch. If anybody would like to explore career opportunities. They are always hiring. I don't think that we kind of address that enough that there is always need for that portion as well.

Then quickly a shout out the Literary Foundation Festival. Visit Las Cruces is also a part of that. Got to stop in. We do have a thriving literary community right here not

always acknowledged. I would like to give a quick shout out that we did have here all the way from Santa Fe down representing local artists and writers too.

### 11.2 COUNCILOR MATTIACE

Most of my comments and questions are going to address to the City Attorney. I phoned in from my vacation from Turkey and Greece and I had pretty bad communications. I lost a lot of the council meeting. I got to vote. I think it was the 5-2, correct? On that welcoming community resolution. So, I just want some clarity and so if you could answer some questions, would that be okay?

Brad Douglas, City Attorney said yes, I will do my best. If there is something that I think veers into attorney/client privilege we will have to meet offline.

Councilor Mattiace said if you go to page three, I hope you can bring up a copy of the new resolution real quick on your computer. I just had a question on page 365 of the 524 on the welcoming community resolution of the revised one. Sorry for my ignorance, I am not as sharp as attorneys so, I just have some clarity that I need some help with. I believe it is on page 365 under Section 3. The copy that I received, you changed that, correct? It says report to the City Council and City Manager all training completed to ensure full compliance with this ordinance. That was change to resolution?

Brad Douglas said I have a copy of the resolution handy. There were a couple of edits made but I don't have it in front of me.

Councilor Mattiace said I believe what I have is a final copy and I think that word ordinance is still maybe in the resolution. So that needs to either come back for an amendment maybe after the election but if it is still there or maybe you had corrected it.

Brad Douglas said it is my understanding that it actually was corrected. I am not sure if that is the most up to date copy but if it is the most up to date copy and there was something that slipped through that is certainly something that would be eligible for an administrative change, so we will go ahead and make that change.

Councilor Mattiace said I was just going to ask maybe that the City Manager or yourself on some clarity on a prohibition of city resources. I believe it is B, there is A, B, C, D, E, F, G, H, I but it would be B, it says stopping, identifying, investigating, arresting, detaining, or continuing to detain a person for immigration enforcement operation purposes including pursuant to an immigration detainer and an administrative immigration warrant or other immigration enforcement document or information or suspicion that the person is not present legally in the United States or that person has committed an immigration violation. Do I understand this that city employees are prohibited, is there a restriction or prohibition on their reporting, am I understanding that correct?

Brad Douglas said the way I would answer your question is that LCPD does not now

or has not ever engaged in solely immigration related enforcement without compensation from the federal government and this governing body has made it clear that we do not wish to engage in that type of activity and so this is specifying for now what we are doing now and what we hope to do keep doing in the future.

Councilor Mattiace asked this would encompass all city employees, not just LCPD? Is this all city employees?

Brad Douglas said yes.

Councilor Mattiace asked where are we and what will the impact be if you go Section 3, it says, in order to ensure a compliance with this resolution within six months of adoption or whenever feasible but not more than one year the city departments or agencies shall provide employees with written directive, protocol, instructions for implementation of this resolution and shall provide an ongoing basis, such trainings as are necessary to ensure compliance with this resolution. The City Manager, will there be increased staff, will there be increased cost? How is this going to be implemented?

Brad Douglas said even though it is not explicitly stated in the resolution it was always my anticipation that it would be my office that would provide direction, that would provide training, and that would provide assistance to the entire city government of course with input from other department directors but I would not anticipate that it would lead to any unanticipated cost at this point.

Councilor Mattiace said if you go down to C it does say that you report to the city council or and City Manager when all training is completed. When does the training start? When do I get trained?

Brad Douglas said the subsection that you just referenced anticipates that city staff will report to the city council which trainings have been completed, what direction has been given but if any member of the governing body after that six-month period would like to meet with me offline, I would be more than happy to do that.

Councilor Mattiace said I was just going to ask Christine, I know you have a lot of on your work as City Clerk, I believe this is on page 366. It says the City Clerk or designee shall provide a quarterly public report. And so, do you have any increased staff, overtime, or any impact there?

Christine Rivera, City Clerk said this will probably be me. I don’t have any increase in staff but I just got overtime in my budget today so this will be handled.

Councilor Mattiace said lastly it is just information regarding citizenship or immigration status, it is clear to me that nothing in this resolution shall be construed to prohibit or restrict any city employee, agent or agency from sending to or receiving from federal immigration authorities information regarding the citizenship or immigration status lawful or unlawful of an individual from requesting from a federal immigration authority, immigration status information lawful or unlawful of any individual maintaining or exchanging that information with any other federal, state, or local

government pursuant to Sections 1373 and 1644 of Title 8 of the United States Code. That is actually the wrap up, the summary of the resolution, correct?

Brad Douglas said correct.

Councilor Mattiace said I just have a few other things, Mayor. I just want the comment on Chris Faivre with helping me with some businesses asking for funding for damaged property. I just want to give kudos to Chris. Thank you very much. I think Mr. Lamb and a very quick response, and he is quite satisfied in helping him with the application. I really appreciate that.

### 11.3 COUNCILOR GRAHAM

None.

### 11.4 COUNCILOR CORRAN

None.

### 11.5 COUNCILOR FLORES

None.

### 11.6 COUNCILOR BENCOMO

I didn't have anything planned today and I wasn't going to say anything, but I just can't let the lingering language that just occurred, the dog whistles about the welcoming city resolution just linger about how incredibly hostile those are to our immigrant community that live in this community, that pay GRT in this community. So, I don't know if a constituent ever reached out to me why I would need to ask for their legal status before I helped them. That is incredibly disappointing and shameful that you are already plotting to rescind this after the election, and I hope our community is listening. That is deeply disappointing.

### 11.7 MAYOR ENRIQUEZ

A couple of things that I wanted to mention was that this Saturday I got to participate in the 250th marking of our country will turn 250 years next year but the Daughters of the American Revolution had a gathering and a celebration at Klein Park. They actually had a marker there marking the 250 year and it was a great presentation to be reminded of what even the Daughters of the American Revolution do, which is to preserve our history, to educate, and patriotism and the timing was great. To see that and to hear that and to also know that they volunteer and help charities and they get involved with civic engagement and do all these things for us and it was a good example and I share it and I give them kudos because I think that is a lot of what we can do is educate and remember our patriotism and their values of being united and freedom.

## 12. CITY MANAGER REPORT

### 12.1 IKANI TAUMOEPEAU

Community Development, Las Cruces is updating its Downtown Map Master Plan to reflect changes since 2016, version and to chart a bold path forward over a dedicated week of outreach city staff and the firm place makers will collect input from residents, businesses and stakeholders to guide improvements. We invite everyone and all of

those listening to the following events, Monday, October 20th, at 6:00 to 7:30 is the opening presentation and kickoff. Wednesday, October 22nd, 10:00 to 11:00 a.m. is the open house, drop-in session. Friday, October 24th, is the closing presentation and summarizing finding next steps, 6:00 to 7:30. All events will be held at Amador Live, 302 South Main Street. For more information, you can find more information on the city website.

Housing, reminder community open house for the upcoming Consolidated Plan and Affordable Housing Plan will be held on October 22nd at Las Cruces Home Builders Event Hall. All are invited to drop in between 3:00 and 7:00 p.m. City of Las Cruces and Dona Ana County invite you to share your input and help improve housing availability, 2825 North Main Street.

For Quality of Life, the 90 years of the Branigan Library exhibit opened at the Branigan Cultural Center 90 years ago. So, on Friday, November 7th we will celebrate the 90th anniversary of the Thomas Branigan Memorial Library with a program at 2:30 p.m.
Neurodivergent Thursdays and Teen Tuesdays are permanent evenings at the museums and City Program Nutrition Team was notified that they will be a recipient of the Golden Chile Award of the New Mexico Grown Program. They will receive the award in Albuquerque on December 1st. This annual event recognizes schools and organizations that promote and utilize locally grown foods throughout the state.

For Public Works, 2024 to 2025 high density mineral project is complete. Thirty-two streets treated with a total cost of $400,000 and East Madrid Avenue will back open to public use by October 30th, total project was $3.6 million.

Sky Fiesta is coming up. I want to invite everyone. This will be an exciting event happening on Saturday, October 25th, show starts at 12 o’clock. It is happening all that afternoon. So hopefully you can make it. There will be food, events, aerial events, air racing, so a lot of great things.

## 13. ADJOURNMENT

**13.1**

**Councilor Yvonne Flores moved, seconded by Councilor Becky Corran, to adjourn at 3:06 p.m.**

| | |
|---|---|
| **RESULT:** | **Carried** |
| **MOVER:** | Councilor Yvonne Flores |
| **SECONDER:** | Councilor Becky Corran |
| **AYES:** | Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores |

Mayor

City Clerk

**26-063**

**Type of Action:**
☒ **Resolution**
☐ **Ordinance**
☐ **TIDD Resolution**

# City Council Action and Executive Summary

| | | | |
|---|---|---|---|
| **District:** | ☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☒ N/A | | |
| **1st Reading:** | | **Adopted:** | November 17, 2025 |
| **Drafter:** | Enedelia Vitolas | **Department:** | Financial Services |

**Title:** **A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES TO PURCHASE ADDITIONAL LASERFICHE RIO LICENSES FROM ICC COMMUNITY DEVELOPMENT SOLUTIONS (FORMERLY GENERAL CODE CMS) OF ROCHESTER, NEW YORK, IN AN AMOUNT NOT TO EXCEED $60,931.20, PLUS APPLICABLE TAXES (PROCUREMENT NO. 25-26-043).**

**TYPE OF ACTION:** ☒ **Administrative** ☐ **Legislative** ☐ **Quasi-Judicial**

## PURPOSE(S) OF ACTION:

To authorize the purchase of Laserfiche licenses.

## BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The City of Las Cruces has increasingly integrated Laserfiche as a core platform for enterprise content management (ECM), records retention, digital workflows, and document automation. The City's current license pool of 140 licenses is fully allocated, limiting the City's ability to onboard new users and departments, and to meet growing document management needs, particularly in light of recent digital transformation initiatives and remote/hybrid work expansion.

Several departments are expanding their usage of Laserfiche for document storage, compliance workflows, and secure access management. Without new licenses, further onboarding is stalled. Laserfiche automates complex workflows, reduces reliance on paper-based processes, and supports compliance mandates. Additional licenses will enable broader adoption of automated workflows, reducing manual workload and error rates.

The City Clerk's Office processes payments for all existing licenses and the annual maintenance service fee, in the amount of $57,042, plus applicable taxes. The City Clerk's Office wishes to procure an additional 60 licenses. The purchase of these licenses will be a one-time fee of $60,931.20 plus applicable taxes. This purchase will bring the annual expenditure total for fiscal year 2026 to $117,973.20, exceeding the $100,000 threshold requiring City Council approval.

Las Cruces Municipal Code, Chapter 24, Section 24-4 (25) Authorized exemptions, authorizes the City to utilize contracts from other entities. Utilization of these contracts allows for efficient and cost-effective procurement of goods and services to meet the City's operational needs.

ICC Community Development Solutions (formerly General Code CMS) of Rochester, New York provides reduced pricing based on OMNIA contract 01-158, which is valid through June 22, 2030. The City Clerk's Office is requesting authorization to contract with ICC in an amount not to exceed $60,931.20, plus applicable taxes for the purchase of these additional licenses.

**SUPPORT INFORMATION:**
Exhibit "A" Laserfiche quote
Attachment "A" Laserfiche Omnia Contract

**PLAN(S):**
None

**COMMITTEE/BOARD REVIEW:**
None

**DOES THIS AMEND THE BUDGET?:**
☐ Yes
☒ No

**BUDGET / FISCAL IMPACT:**

| BUDGETED AMOUNT: | AVAILABLE AMOUNT: | EXPENDITURE AMOUNT: |
|---|---|---|
| 182,000.00 | 62,824.80 | 60,931.20 |

**Funding Source(s):**
10130005-732300

**Does this action amend the Capital Improvement Plan (CIP)?**
☐ Yes
☒ No

**OPTIONS / ALTERNATIVES:**
1. Vote "Yes"; this will approve the purchase of additional Laserfiche licenses from ICC Community Development Solutions, utilizing OMNIA contract 01-158.
2. Vote "No"; this will deny the Resolution, which could negatively impact City operations.
3. Vote to "Amend"; this could modify the Resolution, and Council will need to provide direction to staff.
4. Vote to "Table"; this could delay the purchase of additional Laserfiche licenses, which could negatively impact continued City operations.

**RESOLUTION 26-063**

**A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES TO PURCHASE ADDITIONAL LASERFICHE RIO LICENSES FROM ICC COMMUNITY DEVELOPMENT SOLUTIONS (FORMERLY GENERAL CODE CMS) OF ROCHESTER, NEW YORK, IN AN AMOUNT NOT TO EXCEED $60,931.20, PLUS APPLICABLE TAXES (PROCUREMENT NO. 25-26-043).**

The City Council is informed that:

**WHEREAS**, the City Clerk's Office has increasingly integrated Laserfiche as a core platform for enterprise content management (ECM), records retention, digital workflows, and document automation; and

**WHEREAS**, the City's current license pool of 140 licenses is fully allocated, limiting the City's ability to onboard new users and departments, and to meet growing document management needs, particularly in light of recent digital transformation initiatives and remote/hybrid work expansion; and

**WHEREAS,** the City Clerk's Office processes payments for all existing licenses and the annual maintenance service fee, in the amount of $57,042, plus applicable taxes; and

**WHEREAS**, the City Clerk's Office wishes to procure an additional 60 licenses, and the purchase of these licenses will be a one-time fee of $60,931.20 plus applicable taxes, which will bring the annual expenditure total for fiscal year 2026 to $117,973.20, exceeding the $100,000 threshold requiring City Council approval; and

**WHEREAS**, Las Cruces Municipal Code, Chapter 24, Section 24-4 (25) Authorized exemptions, authorizes the City to utilize contracts from other entities. Utilization of these contracts allows for efficient and cost-effective procurement of goods and services to meet the City's operational needs; and

**WHEREAS**, ICC Community Development Solutions (formerly General Code CMS) of Rochester, New York provides reduced pricing based on OMNIA contract 01-158, which is valid through June 22, 2030; and

**WHEREAS**, the City Clerk's Office is requesting authorization to contract with ICC in an amount not to exceed $60,931.20, plus applicable taxes for the purchase of these additional licenses.

**NOW, THEREFORE,** Be it Resolved by the Governing Body of the City of Las Cruces:

**(I)**

**THAT** the Resolution authorizing the purchase of 60 additional Laserfiche licenses from ICC Community Development Solutions via OMNIA contract no. 01-158 in an amount not to exceed $60,931.20 plus applicable taxes subject to approved budget appropriations, as outlined in Exhibit "A", attached hereto and made part of this Resolution, is hereby approved.

**(II)**

**THAT** City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

**DONE AND APPROVED this** day of

APPROVED

_____

ATTEST:

_____

**Moved by:**

**Seconded by:**

**AYES**

**NAYS**

ICC COMMUNITY DEVELOPMENT

**781 Elmgrove Rd. • Rochester, NY 14624**
**(855) 436-2633 • (585) 328-1810**
**FAX (585) 328-8189**

# CHANGE ORDER #LA2155_09242025
# LASERFICHE RIO SYSTEM – ADDITIONAL LASERFICHE RIO USERS

| | | | |
|---|---|---|---|
| **Client Name:** | City of Las Cruces | **Contact Person:** | Christine Rivera |
| **Address:** | 700 North Main Street | **Account Executive:** | Bruce Cadman |
| | Las Cruces, NM 88001 | **Date**: | 09-24-2025 |

| Line Item Description | Model # | Quantity | Unit Price | Total |
|---|---|---|---|---|
| **Base Software*** | | | | |
| Rio Full Users - 200-499 Tier | ENF-200-499 Tier | 60 | $703.49 | $42,209.40 |
| Rio Forms Professional - 200-499 Tier | EFRM-200-499 Tier | 60 | $70.74 | $4,244.40 |
| Rio Records Management Full Users - 200-499 Tier | ERM-200-499 Tier | 60 | $70.74 | $4,244.40 |
| | | | **Base Software Subtotal** | **$50,698.20** |
| **Support*** | | | | |
| LSAP Rio Full Users - 200-499 Tier | LSAP ENF-200-499 Tier | 60 | $141.47 | $8,488.20 |
| LSAP Rio Records Management Full Users - 200-499 Tier | LSAP ERM-200-499 Tier | 60 | $14.54 | $872.40 |
| LSAP Rio Forms Professional - 200-499 Tier | LSAP EFRM-200-499 Tier | 60 | $14.54 | $872.40 |
| | | | **Support Subtotal** | **$10,233.00** |
| | | | **New Mexico GRT** | **$524.44** |
| | | | **Support Total** | **$10,757.44** |
| | | | **Grand Total** | **$61,455.64** * |

***Laserfiche Software and Support priced at OMNIA/National Cooperative Purchasing Alliance (NCPA) levels: Contract #01-158***

***LSAP/SAAS fees shown herein are for a full year LSAP/SAAS. As applicable, LSAP/SAAS will be prorated to align with the existing LSAP/SAAS anniversary date for the main system. Therefore, the LSAP/SAAS amount on your invoice may be less than the amount shown here. Note:*** *Prices subject to change. Plan for a 5% YOY cost increase to all Laserfiche models.*

***Remote Services include but are not necessarily limited to the following services: software order processing; project management; software implementation such as modification of server to reflect new license levels; installation or modification of server; client or scanning software; installation and/or configuration of add-on products, such as WebLink, Quick Fields or Workflow and configuration of hardware, such as scanners.***

**LSAP/SAAS:** 2nd year forward for this component is estimated to be: $10,757.44*
**subject to change based upon the then-current support prices for that year*

**Payment Terms:** 100% on delivery of software and/or services.

**Price Validity:** Price is valid for 90 days from 09-24-2025

**(*Client please fill out*) Invoice for this Change Order to be sent to: Email:** _____

**Department:**_____ **Contact:**_____

# CHANGE ORDER

This Change Order is subject to ICC Community Development Solutions Terms & Conditions and to the License Agreements for the software referred to above, all of which are available at https://icc-cds.com/terms-conditions/ and are incorporated herein by reference, and client authorizes ICC-CDS to proceed with the project.

The prices and specifications in this Change Order are satisfactory and are hereby accepted. All work is to be performed under the same terms and conditions as specified in the original contract unless otherwise specified.

## CITY OF LAS CRUCES, DONA ANA COUNTY, NEW MEXICO

**Signature** _____ **Date** _____

**Name** _____ **Title** _____

## APPENDIX A – RECOMMENDED SERVER/WORKSTATION SPECIFICATIONS

***Please click on the below links to view current specifications:***

Laserfiche Rio Minimum Recommended Hardware Specs

Laserfiche Default Ports

Virtualization Considerations for Laserfiche

# REQUEST FOR CONTRACT UPDATE #01-158

Pursuant to the terms of your awarded contract, all Contractors must notify and receive approval from Region 14 Education Service Center ("Region 14 ESC") when there is an update to the contract. No request will be officially approved without the prior written authorization from Region 14 ESC. Region 14 ESC reserves the right to accept or reject any request.

Compulink Management Center, Inc DBA Laserfiche (Contractor Name) hereby provides notice of the following update to Region 14 ESC contract number #01-158 for Documents and Records Management (Contract Title) on this date **July 23rd, 2025**

**Instructions**:

**Vendors must check all that may apply and provide supporting documentation.** Be sure to sign the signature page with all required signatures, prior to submitting your update for approval.

*This form is not intended for use if there is a change in operations, which may adversely affect members, i.e. assignment, bankruptcy, change of ownership, merger, etc.*

**Authorized Affiliates/Dealers/Distributors/Resellers**

- ☑ Additions
- ☐ Deletions

**Products/Services (check all that apply)**

- ☐ Additions
- ☐ Deletions
- ☐ Modifications
- ☐ Pricing Update

**Other** *Vendor may include other notes regarding the contract update here: (attach another page if necessary).*

Doing Better Business
Andy Aveni
VP of Technology
1549 Pleasant Valley Rd, Altoona PA 16602
(800) 456-1977
aaveni@doingbetterbusiness.com

Laserfiche

Vendor Name

Landon Devault

Submitted By

Landon Devault

Signature

July 23rd, 2025

Date

**FOR USE BY Region 14 ESC ONLY:**

Signed by:
Emily Jeffrey
4FE64E7070547B...

Signature

7/29/2025

Date

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Advanced Data Solutions, Inc.
John Civale
141 Scarlet Blvd. Suite A
Oldsmar, FL 34677
Phone: (813) 855-3545
jcivale@adsus.net

Accelerated Information Systems (MBE Ve
Zaheer K. Master
25 Newbridge Road, Suite 202
Hicksville, NY 11801
Phone: (516) 822-4466 x101
zkm@aisww.com

American Business Machines
Joe Munoz
1200 18th St
Bakersfield, CA 93301
Phone: (559) 978-7551
jmunoz@abm1.com

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Doing Better Business
Andy Aveni
VP of Technology
1549 Pleasant Valley Rd, Altoona PA 1660
Phone – (800) 456-1977
aaveni@doingbetterbusiness.com

**Business Systems & Consultants, Inc.**
Rick Romano
113 Little Valley Court
Birmingham, AL 35244
(205) 988-3300 x 203
rickromano@bscsolutions.com

Cities Digital
Patrick Welsch
2000 O'Neil Road, Suite 150
Hudson, WI 54016
Phone: (855) 714-2800
sales@citiesdigital.com

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Complete Data Products, Inc.
Nirav Doshi
CEO
5755 NEW KING DR
TROY, Michigan 48098
nirav@securecdp.com
https://www.securecdp.com/
248-205-3709

Complete Paperless Solutions
Claude Scott
4025 E. La Palma Ave Suite 204
Anaheim, CA 92807
Phone: (760) 522-5031
cschott@cps247.com

Cornerstone Engineering Inc
Morgan Barnes
Senior Implementation Manager
5509 YOUNG ST
BAKERSFIELD, California 93311
1 661-325-9474
mab@cornerstoneeng.com
https://cornerstoneeng.com/

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Datamation Imaging Services
7700 Griffin Way Ste B
Willowbrook IL 60517
Phone: (630) 321-0601
cruschel@datamationis.com

Documents Online, Inc.
Brody Wallace
4322 Harding Pike, Suite 417
Nashville, TN 37205
888-404-4133
brody@documentsonline.net

DocuNav Solutions
Ashley Jackson
5048 Tennyson Pkwy, Suite 110
Plano, TX 75024
Phone: (800) 353-2320 x101
ajackson@docunav.com

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DocUnited Imaging
Susan Mosby
PO Box 39386
Phoenix, AZ 85069
Phone: (602) 242-4871 x103
smosby@docunited.com

Dove Print Solutions
John Bowling
1819 Otis Way
Florence, SC 295013
(980) 333-5154
jbowling@dovetechnow.com

DynaSoft, Inc.
Patti Lucas
2690 Cobb Parkway, Suite A5-344
Smyrna, GA 30080
Phone: (678) 296-9606
dynainc@earthlink.net

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ECS Imaging, Inc.
Debbi Bodewin
5905 E. Brockton Ave Suite C
Riverside, CA 92506
Phone: (951) 787-8768 x5
sales@ecsimaging.com

Fisher's Technology
Matthew Fox
575 East 42nd Street
Boise, ID 83714
(208) 947-3606
Mfox@fisherstech.com

FreeDoc
Peter Frix
PO Box 2007
Bothell, WA 98041
(425) 977-4222 x301
pfrix@freedoc.com

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Hemingway Solutions
Larry Phelps
10373 Yates Dr. NW
Minneapolis, MN 55443
(612) 382-4069
lphelps@hemingwaysolutions.net

HI-TECH Business Systems / H3 Solutions.biz
Bryan T. Meehan, Sr.
9008 Yellow Brick Road, Suite E
Rosedale, MD 21237
888-448-3241
bmeehansr@hi-tech1.com

ICC Community Development Solutions
Daniel S. Foster
781 Elmgrove Road
Rochester, NY 14624
(855) 436-2633

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Information Consultants, Inc. (MBE)
Pierre Smith
15800 Pines Blvd, Suite 341
Pembroke Pines, Fl 33027
Phone: (305) 434-7916
psmith@icons-inc.com

Kyocera Document Solutions NE
Michael McDonough
1 Jewel Dr.
Wilmington, Ma 01801
Phone: (781) 272-4560
Michael.Mcdonough@kda-ne.com

MCCi
Cassie Shores
3717 Apalachee Parkway, Suite 201
Tallahassee, FL 32311
Phone (850) 701-0725 ext. 1750
cshores@mccinnovations.com

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MicroImaging Source, Inc
Bryan Stephens
7623 Little Road Suite 100B
New Port Richey, FL 34654
Phone: (800) 346-3510
bstephens@msifla.net

Modified Logic
Heather Abashier
4261 E. University Drive #30-274
Prosper, TX 75078
Phone: (469) 998-7176
heather@modifiedlogic.com

Momentum ECM
Corey Robert
2330 Vartan Way, Suite 185
Harrisburg, PA 17110
Phone: (888) 585-7474 ext. 122
corey@momentumecm.com

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Nexus Imaging Solutions (Certified MBE)
William Penson
1100 Peachtree St NE, Suite 200
Atlanta, GA 30309
Phone: (470) 285-2774
william@nex-usa.com

Nine Peaks Solutions
Eric Skidmore, Managing Partner
5 NW Hawthorne Ave Suite 100
Bend, OR 97703
eskidmore@ninepeakssolutions.com

One Source Document Solutions
Kevin Smith
4335 Federal Dr. #140
Greensboro, NC 27410
Phone: (336) 482-2360
kevin.smith@osdsinc.com

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Peak Performance Imaging Solutions
Jen Harris
P.O. Box 1968
Silverthorne, CO 80498
(800) 260-8806
jharris@peakdigital.com

Preferred Office Technology
Kevin Dickinson
319 S 9th Street
Fort Smith, AR 72901
(479) 782-7991
kdickinson@preferred-office.com

Precision Document Imaging
Justin Long
President
2440 Vassar Street
Reno, Nevada 89502
jlong@precisiondi.com

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Proven Business Systems, LLC
Terry McQuade
Business Process Automation Consult
8101 183rd St
Tinley Park, IL 60487
708.614.1770
tmcquade@provenit.com

RST Solutions
Matthew Skinner
255 Great Valley Parkway
Suite 100
Malvern, PA 19355
(215) 668-9519
matthew.skinner@rstsolutions.com

Scantek
Ron Simone Jr.
Vice President of Sales/Principal
1100 Easton Road
Willow Grove, Pa. 19090
215-882-5000
rsimone@scantek.info

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Southern Technology Group
Bob McCoy
1200 Highland Ave SE
Huntsville, AL 35801
(256) 532-1991 ext. 201
bmcc@stgp.com

SumnerOne/UDP
Timothy Nestor
8058 Flint St.
Lenexa, KS 66214
(913) 322-5013
tnestor@sumnerone.com

Synapse Technologies, Inc
CJ Runge, Owner/Director of Sales
11000 Brimhall Road Suite E-50
Bakersfield, CA 93312
cj@synapse.bz

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TKB Associates Inc
Jerry Breibarth
9459 Enterprise Drive
Mokena, IL 60448
jbreitbarth@tkbassociates.com

Topp Copying Products, Inc.
Chris Falzett
1110 Saginaw Street
Scranto, PA 18505
(800) 982-4021
cfalzett@toppcopy.com

OPG-3, Inc.
Ivan Franklin
8030 Old Cedar Ave. S. Suite 205
Bloomington, MN, 55425
Phone: (651) 233-5068
IFranklin@opg-3.com

Connie Webber
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Phone: (651) 233-5075
cwebber@opg-3.com

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BMI+ImageNet
Leighanne Vaughn
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dlundy@imagenetconsulting.com

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Laserfiche®

# NCPA

## Document and Records Management RFP

Laserfiche
November 16, 2022

DocuSign Envelope ID: 82679202-3385-4F99-95AC-0002086D87EE


Laserfiche®

3443 Long Beach Blvd.
Long Beach, CA 90807
800-985-8533 | 562-988-1688

November 16, 2022

Region 14 Education Service Center
1850 Highway 351
Abilene, Texas, 79601

Re: ***National Cooperative Purchasing Alliance (NCPA) RFP # 36-22 for Document and Records Management***

To Whom It May Concern:

We are pleased to submit the attached proposal in response to the NCPA RFP # 36-22 for Document and Records Management. Compulink Management Center, Inc., doing business as Laserfiche, is the developer of the award-winning Laserfiche® enterprise content management solutions, as well as a respected system integrator and consultancy. We have a successful partnership historically with the NCPA contract for Document and Records Management and believe that Laserfiche is a particularly good fit to continue meeting Region 14 ESC's goal of deploying content management as a foundational technology to assist public agencies drive operational improvements and efficiencies.

Laserfiche is the document management solution of choice for many government and education institutions throughout the world. Over our 30+ years in business, we have cultivated a strong understanding of the business processes within government and education, allowing us to provide solutions which integrate with both commercial and homegrown applications. We have worked hard to foster a sense of community throughout our large and diverse customer base. Our public-sector customers constitute an exceptionally active collection of users anchored by inspirational Laserfiche luminaries.

The Laserfiche software solutions platform is developed and licensed to be implemented as core infrastructure technology for managing content and facilitating optimized business processes. The system bundles functionality and provides for the deployment of servers and repositories so individual departments have access to the tools they need to solve their specific business problems while the enterprise has complete control over system topology. Laserfiche provides the ability to deploy multiple systems for production, testing, development, and training to meet high availability, disaster recovery and changing development needs.

Our proposal follows the format proscribed in the RFP as closely as possible. We have been as concise as possible in our responses. We would be pleased to provide additional information related to this proposal, including our proposed solutions, as requested.

Thank you for your time and consideration.

Sincerely,

DocuSigned by:
Will Talbot
B3EBD0EF514C0...

Will Talbot
Head of Strategic Sales
1.562.988.1688 ext. 148
will.talbot@laserfiche.com

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# TAB 1
# MASTER AGREEMENT - GENERAL TERMS AND CONDITIONS

**Customer Support**
The vendor shall provide timely and accurate technical advice and sales support. The vendor shall respond to such requests within one (1) working day after receipt of the request.

**Disclosures**
Respondent affirms that he/she has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with this contract.

The respondent affirms that, to the best of his/her knowledge, the offer has been arrived at independently, and is submitted without collusion with anyone to obtain information or gain any favoritism that would in any way limit competition or give an unfair advantage over other vendors in the award of this contract.

**Renewal of Contract**
Unless otherwise stated, all contracts are for a period of three (3) years with an option to renew for up to two (2) additional one-year terms or any combination of time equally not more than 2 years if agreed to by Region 14 ESC and the vendor.

**Funding Out Clause**
Any/all contracts exceeding one (1) year shall include a standard “funding out” clause. A contract for the acquisition, including lease, of real or personal property is a commitment of the entity’s current revenue only, provided the contract contains either or both of the following provisions:

Retains to the entity the continuing right to terminate the contract at the expiration of each budget period during the term of the contract and is conditioned on a best efforts attempt by the entity to obtain appropriate funds for payment of the contract.

**Shipments (if applicable)**
The awarded vendor shall ship ordered products within seven (7) working days for goods available and within four (4) to six (6) weeks for specialty items after the receipt of the order unless modified. If a product cannot be shipped within that time, the awarded vendor shall notify the entity placing the order as to why the product has not shipped and shall provide an estimated shipping date. At this point the participating entity may cancel the order if estimated shipping time is not acceptable.

**Tax Exempt Status**
Since this is a national contract, knowing the tax laws in each state is the sole responsibility of the vendor.

**Payments**
The entity using the contract will make payments directly to the awarded vendor or their affiliates (distributors/business partners/resellers) as long as written request and approval by NCPA is provided to the awarded vendor.

**Adding Authorized Distributors/Dealers**
Awarded vendors may submit a list of distributors/partners/resellers to sell under their contract throughout the life of the contract. Vendor must receive written approval from NCPA before such distributors/partners/resellers considered authorized.

Purchase orders and payment can only be made to awarded vendor or distributors/ business partners/resellers previously approved by NCPA.

Pricing provided to members by added distributors or dealers must also be less than or equal to the pricing offered by the awarded contract holder.

All distributors/partners/resellers are required to abide by the Terms and Conditions of the vendor's agreement with NCPA.

**Pricing**
All pricing submitted shall include the administrative fee to be remitted to NCPA by the awarded vendor. It is the awarded vendor’s responsibility to keep all pricing up to date and on file with NCPA.

All deliveries shall be freight prepaid, F.O.B. destination and shall be included in all pricing offered unless otherwise clearly stated in writing

**Warranty**
Proposal should address the following warranty information:

- Applicable warranty and/or guarantees of equipment and installations including any conditions and response time for repair and/or replacement of any components during the warranty period.
- Availability of replacement parts
- Life expectancy of equipment under normal use
- Detailed information as to proposed return policy on all equipment

Products: Vendor shall provide equipment, materials and products that are new unless otherwise specified, of good quality and free of defects
Construction: Vendor shall perform services in a good and workmanlike manner and in accordance with industry standards for the service provided.

**Safety**
Vendors performing services shall comply with occupational safety and health rules and regulations. Also all vendors and subcontractors shall be held responsible for the safety of their employees and any conditions that may cause injury or damage to persons or property.

**Permits**
Since this is a national contract, knowing the permit laws in each state is the sole responsibility of the vendor.

**Indemnity**
The awarded vendor shall protect, indemnify, and hold harmless Region 14 ESC and its participants, administrators, employees and agents against all claims, damages, losses and expenses arising out of or resulting from the actions of the vendor, vendor employees or vendor subcontractors in the preparation of the solicitation and the later execution of the contract.

**Franchise Tax**
The respondent hereby certifies that he/she is not currently delinquent in the payment of any franchise taxes.

**Supplemental Agreements**
The entity participating in this contract and awarded vendor may enter into a separate supplemental agreement to further define the level of service requirements over and above the minimum defined in this contract i.e. invoice requirements, ordering requirements, specialized delivery, etc. Any supplemental agreement developed as a result of this contract is exclusively between the participating entity and awarded vendor.

**Certificates of Insurance**
Certificates of insurance shall be delivered to the Public Agency prior to commencement of work. The insurance company shall be licensed in the applicable state in which work is being conducted. ~~The awarded vendor shall give the participating entity a minimum of ten (10) days notice prior to any modifications or cancellation of policies~~. The awarded vendor shall require all subcontractors performing any work to maintain coverage as specified.

**Legal Obligations**
It is the Respondent's responsibility to be aware of and comply with all local, state, and federal laws governing the sale of products/services identified in this RFP and any awarded contract and shall comply with all while fulfilling the RFP. Applicable laws and regulation must be followed even if not specifically identified herein.

**Protest**
A protest of an award or proposed award must be filed in writing within ten (10) days from the date of the official award notification and must be received by 5:00 pm CST. Protests shall be filed with Region 14 ESC and shall include the following:

- Name, address and telephone number of protester
- Original signature of protester or its representative
- Identification of the solicitation by RFP number
- Detailed statement of legal and factual grounds including copies of relevant documents and the form of relief requested

Any protest review and action shall be considered final with no further formalities being considered.

**Force Majeure**
If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

The term Force Majeure as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, act of public enemy, orders and regulation of any kind of government of the United States or any civil or military authority; insurrections; riots; epidemics; pandemic; landslides; lighting; earthquake; fires; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions, breakage or accidents to machinery, pipelines or canals, or other causes not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable in the judgment of the party having the difficulty

**Prevailing Wage**
It shall be the responsibility of the Vendor to comply, when applicable, with the prevailing wage legislation in effect in the jurisdiction of the purchaser. It shall further be the responsibility of the Vendor to monitor the prevailing wage rates as established by the appropriate department of labor for any increase in rates during the term of this contract and adjust wage rates accordingly.

**Termination**
Either party may cancel this contract in whole or in part by providing written notice. The cancellation will take effect 30 business days after the other party receives the notice of cancellation. After the 30th business day all work will cease following completion of final purchase order.

**Open Records Policy**
Because Region 14 ESC is a governmental entity responses submitted are subject to release as public information after contracts are executed. If a vendor believes that its response, or parts of its response, may be exempted from disclosure, the vendor must specify page-by-page and line-by-line the parts of the response, which it believes, are exempt. In addition, the respondent must specify which exception(s) are applicable and provide detailed reasons to substantiate the exception(s).

The determination of whether information is confidential and not subject to disclosure is the duty of the Office of Attorney General (OAG). Region 14 ESC must provide the OAG sufficient

information to render an opinion and therefore, vague and general claims to confidentiality by the respondent are not acceptable. Region 14 ESC must comply with the opinions of the OAG. Region14 ESC assumes no responsibility for asserting legal arguments on behalf of any vendor. Respondent are advised to consult with their legal counsel concerning disclosure issues resulting from this procurement process and to take precautions to safeguard trade secrets and other proprietary information.

## SIGNATURE FORM

The undersigned hereby proposes and agrees to furnish goods and/or services in strict compliance with the terms, specifications and conditions at the prices proposed within response unless noted in writing. The undersigned further certifies that he/she is an officer of the company and has authority to negotiate and bind the company named below and has not prepared this bid in collusion with any other Respondent and that the contents of this proposal as to prices, terms or conditions of said bid have not been communicated by the undersigned nor by any employee or agent to any person engaged in this type of business prior to the official opening of this proposal.

Prices are guaranteed: **120 days**

**Compulink Management Center, Inc. dba Laserfiche**

Company Name

3443 Long Beach Blvd

Address

| Long Beach | California | 90807 |
|---|---|---|
| City | State | Zip |

| 562-988-1688 | N/A |
|---|---|
| Telephone Number | Fax Number |

notices@laserfiche.com

Email Address

| Peter Wayman | President |
|---|---|
| Printed Name | Position |

DocuSigned by:
Peter Wayman
55434A302F9F438...

Authorized Signature

# TAB 2
# NCPA ADMINISTRATION AGREEMENT

This Administration Agreement is made as of December 8, 2022, by and between National Cooperative Purchasing Alliance ("NCPA") and
Compulink Management Center, Inc. dba Laserfiche ("Vendor").

**Recitals**

WHEREAS, Region 14 ESC has entered into a certain Master Agreement dated December 8, 2022, referenced as Contract Number 01-158, by and between Region 14 ESC and Vendor, as may be amended from time to time in accordance with the terms thereof (the "Master Agreement"), for the purchase of Document and Records Management;

WHEREAS, said Master Agreement provides that any state, city, special district, local government, school district, private K-12 school, technical or vocational school, higher education institution, other government agency or nonprofit organization (hereinafter referred to as "public agency" or collectively, "public agencies") may purchase products and services at the prices indicated in the Master Agreement;

WHEREAS, NCPA has the administrative and legal capacity to administer purchases under the Master Agreement to public agencies;

WHEREAS, NCPA serves as the administrative agent for Region 14 ESC in connection with other master agreements offered by NCPA

WHEREAS, Region 14 ESC desires NCPA to proceed with administration of the Master Agreement;

WHEREAS, NCPA and Vendor desire to enter into this Agreement to make available the Master Agreement to public agencies on a national basis;

NOW, THEREFORE, in consideration of the payments to be made hereunder and the mutual covenants contained in this Agreement, NCPA and Vendor hereby agree as follows:

**General Terms and Conditions**

- The Master Agreement, attached hereto as Exhibit 1 and incorporated herein by reference as though fully set forth herein, and the terms and conditions contained therein shall apply to this Administration Agreement except as expressly changed or modified by this Administration Agreement.
- NCPA shall be afforded all of the rights, privileges and indemnifications afforded to Region 14 ESC under the Master Agreement, and such rights, privileges and indemnifications shall accrue and apply with equal effect to NCPA under this Administration Agreement including, but not limited to, Contractor's obligation to provide appropriate insurance and certain indemnifications to Region 14 ESC.

- Contractor shall perform all duties, responsibilities and obligations required under the Master Agreement in the time and manner specified by the Master Agreement.
- NCPA shall perform all of its duties, responsibilities, and obligations as administrator of purchases under the Master Agreement as set forth herein, and Contractor acknowledges that NCPA shall act in the capacity of administrator of purchases under the Master Agreement.
- With respect to any purchases made by Region 14 ESC or any Participating Agency pursuant to the Master Agreement, NCPA (a) shall not be construed as a dealer, re-marketer, representative, partner, or agent of any type of Contractor, Region 14 ESC, or such Participating Agency, (b) shall not be obligated, liable or responsible (i) for any orders made by Region 14 ESC, any Participating Agency or any employee of Region 14 ESC or Participating Agency under the Master Agreement, or (ii) for any payments required to be made with respect to such order, and (c) shall not be obligated, liable or responsible for any failure by the Participating Agency to (i) comply with procedures or requirements of applicable law, or (ii) obtain the due authorization and approval necessary to purchase under the Master Agreement. NCPA makes no representations or guaranties with respect to any minimum purchases required to be made by Region 14 ESC, any Participating Agency, or any employee of Region 14 ESC or Participating Agency under this Administration Agreement or the Master Agreement.
- With respect to any supplemental agreement entered into between a Participating Agency and Contractor pursuant to the Master Agreement, NCPA, its agents, members and employees shall not be made party to any claim for breach of such agreement.
- This Administration Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other agreement, statement, or promise relating to the subject matter of this Administrative Agreement which is not contained herein shall be valid or binding.
- Contractor agrees to allow NCPA to use their name and logo within website, marketing materials and advertisement. Any use of NCPA name and logo or any form of publicity regarding this Administration Agreement or the Master Agreement by Contractor must have prior approval from NCPA.
- If any action at law or in equity is brought to enforce or interpret the provisions of this Administration Agreement or to recover any administrative fee and accrued interest, the prevailing party shall be entitled to reasonable attorney's fees and costs in addition to any other relief to which such party may be entitled.
- Neither this Administration Agreement nor any rights or obligations hereunder shall be assignable by Contractor without prior written consent of NCPA, provided, however, that the Contractor may, without such written consent, assign this Administration Agreement and its rights and delegate its obligations hereunder in connection with the transfer or sale of all or substantially all of its assets or business related to this Administration Agreement, or in the event of its merger, consolidation, change in control or similar transaction. Any permitted assignee shall assume all assigned obligations of its assignor under this Administration Agreement.
- This Administration Agreement and NCPA's rights and obligations hereunder may be assigned at NCPA's sole discretion, to an existing or newly established legal entity that has the authority and capacity to perform NCPA's obligations hereunder.

**Term of Agreement**
This Agreement shall be in effect so long as the Master Agreement remains in effect, provided, however, that the obligation to pay all amounts owed by Vendor to NCPA through the

termination of this Agreement and all indemnifications afforded by Vendor to NCPA shall survive the term of this Agreement.

**Fees and Reporting**

The awarded vendor shall electronically provide NCPA with a detailed quarterly report showing the dollar volume of all sales under the contract for the previous quarter. Reports are due on the fifteenth (15th) day after the close of the previous quarter. It is the responsibility of the awarded vendor to collect and compile all sales under the contract from participating members and submit one (1) report. The report shall include at least the following information as listed in the example below:

| Entity Name | Zip Code | State | PO or Job # | Sale Amount |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |

**Total** _____

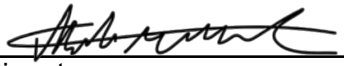
Each quarter NCPA will invoice the vendor based on the total of sale amount(s) reported. From the invoice the vendor shall pay to NCPA an administrative fee based upon the tiered fee schedule below. Vendor's annual sales shall be measured on a calendar year basis. Deadline for term of payment will be included in the invoice NCPA provides.

| Annual Sales Through Contract | Administrative Fee |
|---|---|
| 0 - $30,000,000 | 2% |
| $30,000,001 - $50,000,000 | 1.5% |
| $50,000,001+ | 1% |

Supplier shall maintain an accounting of all purchases made by Public Agencies under the Master Agreement. NCPA and Region 14 ESC reserve the right to audit the accounting for a period of four (4) years from the date NCPA receives the accounting. In the event of such an audit, the requested materials shall be provided at the location designated by Region 14 ESC or NCPA. In the event such audit reveals an under reporting of Contract Sales and a resulting underpayment of administrative fees, Vendor shall promptly pay NCPA the amount of such underpayment, together with interest on such amount and shall be obligated to reimburse NCPA's costs and expenses for such audit.

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## ACKNOWLEDGMENT OF CONTRACTOR REQUIREMENTS

| | |
|---|---|
| National Cooperative Purchasing Alliance | Compulink Management Center, Inc. dba Laserfiche |
| Organization | Vendor Name |
| Matthew Mackel | Peter Wayman |
| Name | Name |
| Director, Business Development | President |
| Title | Title |
| PO Box 701273 | 3443 Long Beach Blvd |
| Address | Address |
| Houston, TX 77270 | Long Beach, CA 90807 |
| Address | Address |
|  | DocuSigned by: Peter Wayman 35434A302F9F438... |
| Signature | Signature |
| December 8, 2022 | 11/16/2022 |
| Date | Date |

# TAB 3
# VENDOR QUESTIONAIRE

Please provide responses to the following questions that address your company's operations, organization, structure, and processes for providing products and services.

**Locations Covered**

- Bidder must indicate any and all locations where products and services can be offered.
- Please indicate the price co-efficient for each location if it varies.

| ☒ **All 50 States & District of Columbia** (Selecting this box is equal to checking all boxes below) | | | |
|---|---|---|---|
| ☐ Alabama | ☐ Illinois | ☐ Montana | ☐ Rhode Island |
| ☐ Alaska | ☐ Indiana | ☐ Nebraska | ☐ South Carolina |
| ☐ Arizona | ☐ Iowa | ☐ Nevada | ☐ South Dakota |
| ☐ Arkansas | ☐ Kansas | ☐ New Hampshire | ☐ Tennessee |
| ☐ California | ☐ Massachusetts | ☐ New Jersey | ☐ Texas |
| ☐ Colorado | ☐ Michigan | ☐ New Mexico | ☐ Utah |
| ☐ Connecticut | ☐ Minnesota | ☐ New York | ☐ Vermont |
| ☐ Delaware | ☐ Mississippi | ☐ North Carolina | ☐ Virginia |
| ☐ D.C. | ☐ Missouri | ☐ North Dakota | ☐ Washington |
| ☐ Florida | ☐ Kentucky | ☐ Ohio | ☐ West Virginia |
| ☐ Georgia | ☐ Louisiana | ☐ Oklahoma | ☐ Wisconsin |
| ☐ Hawaii | ☐ Maine | ☐ Oregon | ☐ Wyoming |
| ☐ Idaho | ☐ Maryland | ☐ Pennsylvania | |

| ☒ **All U.S. Territories and Outlying Areas** (Selecting this box is equal to checking all boxes below) | |
|---|---|
| ☐ American Somoa | ☐ Northern Marina Island |
| ☐ Federated States of Micrones | ☐ Puerto Rico |
| ☐ Guam | ☐ U.S. Virgin Islands |
| ☐ Midway Islands | |

| | |
|---|---|
| ☒ **All Canada Provinces and Territories** (Selecting this box is equal to checking all boxes below) | |
| ☐ Alberta | ☐ Prince Edward Island |
| ☐ British Columbia | ☐ Quebec |
| ☐ Manitoba | ☐ Saskatchewan |
| ☐ New Brunswick | ☐ Northwest Territories |
| ☐ Newfoundland and Labrador | ☐ Nunavut |
| ☐ Nova Scotia | ☐ Yukon |
| ☐ Ontario | |

If awarded a Master Agreement, will your company extend the terms offered in your Proposal to public agencies in Canada? If no or maybe, please explain.

☒ Yes ☐ Maybe ☐ No

If awarded a Master Agreement, will your company extend the terms offered in your Proposal to private sector customers?

☒ Yes ☐ Maybe ☐ No

**Minority and Women Business Enterprise (MWBE) and (HUB) Participation**
It is the policy of some entities participating in NCPA to involve minority and women business enterprises (MWBE) and historically underutilized businesses (HUB) in the purchase of goods and services. Respondents shall indicate below whether or not they are an M/WBE or HUB certified.

☐ Minority/Women Business Enterprise
Respondent Certifies that this firm a Minority / Women Business Enterprise

☐ Historically Underutilized Business
Respondent Certifies that this firm is a Historically Underutilized Business

**Small Business, MWBE and HUB Growth**
If Proposer is a Large, National or Multinational Organization/Corporation, what programs are in place that partners or supports the growth of small and MWEB and HUB business? If yes, please describe.

☐ N/A, we are a recognized small, MWEB or HUB organization

☒ No, we do not have any programs in place.

☐ Yes, we have programs in place.

**Residency**
Responding Company's principal place of business is in the city of Long Beach, , State of California.

**Felony Conviction Notice**
Please Check Applicable Box (If the 3rd box is checked, a detailed explanation of the names and convictions must be attached):

☐ A publicly held corporation; therefore, this reporting requirement is not applicable.

☒ Is not owned or operated by anyone who has been convicted of a felony.

☐ Is owned or operated by the following individual(s) who has/have been convicted of a felony

**Distribution Channel**
Which best describes your company's position in the distribution channel:

☒ Manufacturer Direct ☐ Certified education/government reseller

☐ Authorized Distributor ☐ Manufacturer marketing through reseller

☐ Value-added reseller ☐ Other: _____

**Processing Contact Information**

| | |
|---|---|
| Contact Person | Courtney Pugh |
| Title | Assistant Program Manager |
| Company | Compulink Management Center, Inc. dba Laserfiche |
| Address | 3443 Long Beach Blvd |
| City/State/Zip | Long Beach, CA 90807 |
| Phone | 562-988-1688 |
| Email | Courtney.Pugh@Laserfiche.com |

**Pricing Information**
In addition to the current typical unit pricing furnished herein, the Vendor agrees to offer all future product introductions at prices that are proportionate to Contract Pricing. If answer is no, attach a statement detailing how pricing for NCPA participants would be calculated for future product introductions.

☒ Yes ☐ No

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Pricing submitted includes the required NCPA administrative fee. The NCPA fee is calculated based on the invoice price to the customer.

☒ Yes ☐ No

# TAB 4

# VENDOR PROFILE

## Company's official registered name

Compulink Management Center, Inc. DBA Laserfiche

## Company History

Since 1987, Laserfiche Enterprise Content Management software has been trusted by organizations worldwide to manage, secure, and share information. As a privately-held company based in California, Laserfiche develops solutions for capture, workflow, forms, e-signatures and case management that help organizations drive business value—and make timely, informed decisions. Laserfiche represents a unique combination of stability and innovation within the Enterprise Content Management industry. Stability within the management and development teams and sustained, consistent profitability has allowed Laserfiche to follow a long-term strategy without distraction from short-term pressures. Unparalleled customer loyalty and satisfaction are hallmarks of doing things the right way for decades.

Laserfiche utilizes an integrated architecture that allows services such as document imaging, document management and records management to be layered transparently and exposed through personalized interfaces. With a comprehensive set of tools designed specifically to work together, Laserfiche provides the ability to design and build creative solutions to complex business problems that break patterns developed over 30 years of doing things the way they have always been done.

Usability and accessibility are primary design considerations for every Laserfiche application. All administrative, design and configuration interfaces benefit from the same user focused design applied to user facing applications. This approach ensures that implementing, configuring, and maintaining a Laserfiche system does not require highly specialized technical skills, which makes it easy to rapidly expand system usage while minimizing total cost of ownership.

## Dun & Bradstreet (D&B) number.

086512134

## Organizational Chart



## Corporate Location and Contact Info

Laserfiche Headquarters - 3443 Long Beach Blvd, Long Beach, CA 90807
Name: Will Talbot
Title: Head of Strategic Sales
Telephone: 1.562.988.1688 x 148
Mobile: 1.562.253.1499
E-mail: will.talbot@laserfiche.com

## Standard terms of payment

We sell direct and through a reseller channel. For our direct customers, the standard term is net 30. For our resellers with a credit line, standard term is net 30, except for expired LSSP orders for which standard term is “Due upon Receipt”. For our new resellers, the standard term of payment is prepaid.

## Competition in the Marketplace

We provide Enterprise Content Management solutions, so our competition ranges from industry specific document management providers to other ECM solutions. We have been recognized by analysts for being the best value ECM solution (InfoTech) and are consistently rated as one of the leaders in the ECM industry. Laserfiche defines the Transactional Content Management niche.

## Financial Information

Financial information may be provided directly under separate cover to prospective customers with signed nondisclosure agreements.

## Company Differentiation

Laserfiche is the leading provider of intelligent content management and business process automation. Laserfiche's robust digital transformation tools — including powerful workflows, electronic forms, document management, and analytics — enable organizations to configure solutions that meet their diverse needs. At the same time, Laserfiche provides low-code and no-code process automation that empowers business users to create and deploy solutions quickly. The Laserfiche Solution Marketplace is a powerful example of this approach, with 150-plus prebuilt solution templates aimed at helping jumpstart process automation and digital transformation, which range from common business processes (such as new hire onboarding, accounts payable and contract management) to individual industry or organization needs (such as student registration and enrollment, transportation request or student accident report forms). Users can quickly deploy their own automated workflows or connect Laserfiche to other applications faster using these prebuilt solutions, which follow industry-vetted designs and best practices.

Laserfiche’s development approach incorporates innovations in machine learning and AI to enable organizations in more than 80 countries to transform into digital businesses. Customers in the most highly regulated industries — including government, education, financial services, healthcare, and manufacturing — use Laserfiche to boost productivity, scale their business and deliver digital-first customer experiences. With DoD 5015.2 version 3-certified electronic records management, Laserfiche facilitates organizations' compliance with various regulatory requirements, additionally maintaining a set of industry compliance certifications and attestations itself such as SOC2 Type 2 Plus, HECVAT, DoD 5015.2 v3 certification.  ISO 27001 is in progress.

Laserfiche has also fostered an active user community, comprising customers who are very enthusiastic about sharing the solutions they've built and what they've achieved with Laserfiche. This knowledge sharing is incredibly value to users looking to learn and otherwise be inspired by others' digital transformation initiatives.

### Marketing of the Contract if Awarded

With NCPA permission, we would market this partnership through the following channels:

- Press Release announcing the contract
- Announce the contract to our resellers and educate them on its use
- Partner with NCPA in the future to publicize implementations (with customer approval) and technological innovation at Laserfiche.

### Introduction of NCPA to Company

Laserfiche would introduce NCAP to the entire company through email and company intranet, sharing the public press release. We will also educate our sales organization on the contract through our weekly sales enablement meeting.

### Online Ordering

Our online catalog, the Laserfiche Ordering System, allows our resellers to place orders for their customers for current Laserfiche software. Resellers and Laserfiche Sales Representatives can then monitor and follow up with customer orders.

### Customer Service Department

Our support team can be reached from 6:00 A.M. to 5:00 P.M. Pacific Standard Time, Monday through Friday, excluding holidays, at: (562) 988-1688
We also have a support portal, the Laserfiche Support Site (https://support.laserfiche.com)
General questions may be emailed to info@laserfiche.com

### Green Initiatives

Laserfiche is committed to building and supporting the paperless office. Not only does this drive efficiency in our daily work, but it also helps to preserve our finite resources. This also supports our customers' green initiatives, by enabling them to build a paperless office.

As our business grows, we want to make sure we minimize our impact on the Earth's climate. We are taking every step we can to implement innovative and responsible environmental practices to reduce our carbon footprint, reduce waste, energy conservation, ensure efficient computing and much more.

Laserfiche's corporate social responsibility (CSR) program demonstrates continuing commitment to the company's employees, the local and global community and society-at-large. As a part of that commitment, mitigating impact on the environment is one of its pillars.

As an electronic content management company, the very nature of Laserfiche's software promotes paperless business operations through secure electronic records storage and process automation. Laserfiche's green initiatives focus on reducing our carbon footprint and improving our environmental impact through sustainable, mindful practices and environmental initiatives that preserve resources.

The new Laserfiche Headquarters in Long Beach was completed in early 2022. With

sustainability and wellness at the forefront of the buildings' design, environmentally friendly building materials were used. Laserfiche recently submitted for Leadership in Energy and Environmental Design (LEED) Gold Certification, the globally recognized symbol of sustainability achievement and leadership. As the most widely used green building rating system in the world, it provides a framework for healthy, highly efficient green buildings.

The headquarters' parking garage encourages sustainable practices, with 21 carpool spots, 16 EV charging stations and a 700+ square foot bike station with 52 bike parking spaces, 2 pumps, and mechanical stations to support employees biking to work. The white building and cooling roof reduces the heat island effect while water retention planters help capture water to re-use, minimizing water run-off during a storm. To promote waste reduction, Laserfiche provides a 3-stream waste program, providing education on waste and receptacles for trash, recycling, and compost.

Windows on each floor maximize the use of natural daylight, while minimizing electricity usage and the attached fins provide shade. Additionally, a special window glazing helps minimize glare from the sun and lessen heat absorption. All lights are motion-censored to save electricity when areas are not in use.

The building features local, cradle-to-cradle recycled carpet, EnergyStar appliances and WaterSense fixtures. To prevent waste of paper and plastic, there are filtered water stations on every floor. Biophilic design of the building provides access to the outdoors, which live plants are scatter throughout the building.

When upgrading to more efficient technology and infrastructure, Laserfiche donates the technology to the nonprofit, Human-I-T, diverting technology from landfills. Since 2018, Laserfiche has diverted 20,578 pounds of technology, which is then repurposed and provided to communities to help bridge the digital divide.

Laserfiche has also partnered with the iDig Long Beach for the 10,000 trees by 2022 initiative. Laserfiche employees have helped plant and maintain street trees in Long Beach to combat air pollution and create an urban forest. Learn more here: https://laserfiche1.wistia.com/medias/byndbyp9uw?wtime=0. Furthermore, as part of our Laserfiche's Empower user conference, the company asked visitors to share their sustainability initiatives and planted over 600 trees on their behalf.

## Anti-Discrimination Policy

Laserfiche is an equal opportunity employer. In accordance with applicable law, we prohibit discrimination and harassment against employees, applicants for employment, individuals providing services in the workplace pursuant to a contract, interns, and volunteers based on their actual or perceived: race (including traits historically associated with race, such as hair texture and protective hairstyles), religious creed, color, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status (including registered domestic partnership status), sex and gender (including pregnancy, childbirth, lactation, and related medical conditions), gender identity and gender expression (including transgender individuals who are transitioning, have transitioned, or are perceived to be transitioning to the gender with which they identify), age (40 and over), sexual orientation, Civil Air Patrol status, military and veteran status, and any other consideration protected by federal, state, or local law (collectively referred to as "protected characteristics").

Discrimination on the basis of "national origin" also includes discrimination against an individual because that person holds or presents the California driver license issued to those

who cannot document their lawful presence in the United States, as well as discrimination based upon any of the following: an individual's or individual's ancestors' actual or perceived physical, cultural, or linguistic characteristics associated with a national origin group; marriage to or association with individuals of a national origin group; tribal affiliation; membership in or association with an organization identified with or seeking to promote the interests of a national origin group; attendance or participation in schools, churches, temples, mosques, or other religious institutions generally used by persons of a national origin group; or a name that is associated with a national origin group. An employee's or applicant for employment's immigration status will not be considered for any employment purpose except as necessary to comply with federal, state, or local law. Laserfiche allows employees to self-identify their gender, name, and/or pronoun, including gender-neutral pronouns. Laserfiche will use an employee's gender or legal name as indicated on a government-issued identification document, only as necessary to meet an obligation mandated by law. Otherwise, the Company will identify the employee in accordance with the employee's current gender identity and preferred name.

Laserfiche will not tolerate discrimination or harassment based upon these protected characteristics or any other characteristic protected by applicable federal, state, or local law. Laserfiche also does not retaliate or otherwise discriminate against applicants or employees who request a reasonable accommodation for reasons related to disability or religion. Our commitment to equal opportunity employment applies to all persons involved in our operations and prohibits unlawful discrimination and harassment by any employee, including supervisors and co-workers.

## Vendor Certifications

Laserfiche currently has DoD 5015.2 v3 certification, HECVAT certification and a SOC II PLUS available (provided with signed NDA). ISO 27001 certification in progress.

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# TAB 5
# PRODUCTS AND SERVICES

Laserfiche will perform and provide its products and/or services under the terms of this agreement with NCPA as well as the terms of its Cloud Subscription Agreement, End User License Agreement and/or Laserfiche Services Agreement, as applicable. Laserfiche will assist the end user with marking a determination of their individual needs.

See above referenced agreements for warranty, indemnification and other legal standard provisions.

The following is a list of Documents and Record Management categories offered by Laserfiche:

1. **Categories**

    - Enterprise Content Management
    - Workflow
    - Records Management
    - Records Storage
    - Intelligent Content Capture
    - Document Imaging
    - Document Management
    - Data Backup & Recovery
    - eForm Software
    - Mobile Access
    - Process Automation

All products in the Laserfiche product line are manufactured by Laserfiche, and details regarding functionality can be found on our website at www.laserfiche.com.

**2. Products and Services**. Laserfiche will offer the following products and services:

**2.1 Discovery.** Discovery/Assessment of Existing Records, System, and Policies/Procedures shall include discovery/assessment sessions in order to develop a detailed assessment and strategic roadmap for a comprehensive Records Management Program.

Laserfiche typically performs discovery workshops as the first step in process initiation and work with our customers. From these sessions, we can provide a detailed assessment of the current state and a roadmap/plan to develop a comprehensive Records Management Program within the Laserfiche platform.

**2.2 Tasks.** Laserfiche will perform the following tasks:

**A.** On-site assessment/discovery interview sessions, with teams from Participating Agency's departments/divisions, to identify record repositories and processes that result in the generation of records from the following departments.

**B.** Assess current records requirements by the Participating Agency and types of records generated (e.g., data, documents, messages, hardcopies, electronic/soft copies, etc.)

**C.** Systems utilized to store records for both current and legacy documents.

**D.** Current taxonomy and metadata implemented.

**E.** Existing data inventory systems from offsite record storage providers.

**F.** Systems utilized to store records for both current and legacy documents.

**G.** Evaluation of adherence to the current Retention Schedule/Record Destruction Policy Identification and evaluation of records generated (hard copy and/or electronic) – Applicable federal, state, and local laws/regulations.

**H.** Current system used for record storage (current and archived).

**I.** Areas of potential record duplication.

Laserfiche project lifecycles cover the above tasks. Initial discussions are required to determine exactly what migrations from legacy systems would require. It is Laserfiche's expectation that after a migration all content, Laserfiche would become the source of truth for documents. Any risk of record duplication would be cleared up in the migration plan.

**2.3 System Capability.** Laserfiche solutions:

**A.** Are compatible with all modern web browsers (Edge, Firefox, Chrome, Safari, etc.)

Laserfiche is supported on the latest versions of Chrome, Microsoft Edge (Chromium), Firefox, and Safari for iOS.

**B.** Utilize a mobile-friendly, responsive design that is compatible on iOS and Android Mobile devices

**C.** Allow Participating Agency System Administrator to configure role-based permissions and individual user permissions.

System administrators can set security permissions and feature rights on an individual or group basis.

**D.** Allow users to enter search parameters to locate documents by reference number, application name, document type, date received, site address and other entered attributes.

These metadata fields can be applied to all files/folders stored in the repository and used in search.

**E.** Allow Participating Agency Application Administrator to configure new folders, sub- folders, document attributes, and document types without Contractor's assistance. Administrator can select whether confidential folders are visible in the customer-facing interface.

Admin users can configure security rights, including visibility, on all files within the repository. Authorized users can create new folders, sub folders, metadata fields, templates, or document types, and configure other settings based on their assigned rights.

**F.** Allow Users to configure their own search parameters to enable searching by a variety of attributes, for example: reference number, date received, and document type.

Users can filter their searches by metadata fields (reference number, date, document type, or any other fields that are configured by authorized users.) These searches can also be saved and reused if needed.

**G.** Have options for onsite, cloud-based storage and hybrid-based storage

Laserfiche is available in either a Cloud SaaS system or Self-hosted system. Self-hosted systems can be hosted on an organization's onsite servers and/or Cloud environments such as Azure or AWS.

**H.** Allow Participating Agency to retain ownership of the data stored on the platform and the ability to extract it in full at any time.

**I.** Allow the direct import of common electronic document types (such as, but not limited to: TIF, PDF, JPG, Microsoft Office standard formats such as docx and xlsx).

All file types that can be stored within a Windows system can also be stored in the Laserfiche Repository.

**J.** Are easy to navigate, user-friendly user interface.

Laserfiche provides a friendly user experience by delivering a modern, intuitive user interface.

**K.** Allow for add-on for Microsoft Office Integration to enable import of emails directly into system.

Laserfiche has a user-friendly Microsoft Outlook integration that allows users to import emails with only a couple of clicks.

**L.** Allow for files can be uploaded by using a drag-and-drop system.

**M.** Allow Application administrator to upload document templates for use by users.

**N.** Enable storage of application presentation documents, such as PowerPoint files, photographs and videos

All files that can be saved on a Windows device can be uploaded into the

repository.

**O.** Identify duplicate documents within a folder

Depending on the Repository setup, workflow can be used to identify duplicate documents in a folder based on configured rules (such as when file names match).

**2.5 Customer Facing Interface.** The Laserfiche User Interface addresses the following requirements:

**A.** Include a count of the total number of documents in a folder,

**B.** Enable the downloading and printing of documents

**C.** Allow Administrator to redact sections of documents from public view if needed. Printed and downloaded documents include the redaction in the downloaded version,

Annotations, such as redactions, can be applied to document pages. Redactions will be included in downloaded versions of documents. When downloading document pages as PDFs, users can choose to convert Laserfiche annotations to PDF annotations upon download.

**D.** Ability to generate hyperlinks to specific documents within the system to allow these to be used in reports, emails, etc,

Please note that depending on how the document link is sent, users will still need to login to view the document.

**E.** Ability to select different languages and/or photos within the interface,

Laserfiche offers several language options to translate the interface display text within the repository client. Additionally, users can view photos stored in Laserfiche.

**F.** ADA Compliant Interface,

As a part of our ongoing commitment to accessibility within our software, Laserfiche has Voluntary Product Accessibility Templates (VPATs) available for review for our product suite. For more information visit https://www.laserfiche.com/legal/accessibility/

**G.** At-a-glance status of applications based on input meta-data (i.e meta-data and attribute can be added to application folders in addition to documents within folders to enable application status to be published/summarized via a page on the Participating Agency's website.

Metadata can be applied to folders and updated depending on the status of a document. This information can be displayed either in the Repository columns, or in the folder name itself so it can be viewed at a glance.

**2.6 Reporting and Management.** Laserfiche solutions meet the following requirements:

**A.** System generates reports of number of documents accessed, imported, uploaded, edited and deleted. Results can be refined by user.

Laserfiche Audit Trail enables you to track activities performed in a Laserfiche repository. The tracked information is stored in log files that Audit Trail uses to generate reports. Users can filter reports based on criteria such as action performed, date range, etc.

**B.** System collects information on when documents are accessed/ viewed/ modified and

downloaded.

Laserfiche Audit Trail can be configured to store this data into log files that can be used to generate reports.

**C.** System can generate reports on total size of all data stored in the system and, depending on whether system is cloud-based, where data is being stored.

Full storage information can be viewed within administrative consoles for both self-hosted and cloud. Self-hosted systems will also display storage location information by reporting on individual file volumes created for the system.

**2.7 Testing.** Laserfiche will complete all necessary implementation work in a professional manner that meets the requirements of the Participating Agency. Laserfiche will ensure that system is correctly configured to meet all Participating Agency functional requirements. Laserfiche will coordinate functional testing to ensure accuracy of configurations. Work shall commence within 45 days of contract award.

Projects always entail the delivery of a requirements document. On signing off on finalized requirements documentation, the development cycle begins. The Laserfiche development cycle runs in an agile manner where the team will demo new features/processes as they are being built to receive immediate feedback in coordination with the requirements deliverable. After development, the project enters the user acceptance testing phase where Laserfiche and our customer will work together to turn the requirements document into a test plan. It will be up to the customer to work through the test plan and confirm requirements are met. Laserfiche's goal with the agile development cycle is to make the User Acceptance Testing phase much easier for both parties as proper expectations are met early in the project.

**2.8 Training.** Laserfiche will provide resources experienced with developing and executing training plans, including content development and delivery, to assist the Participating Agency in meeting end-user training needs. Implementation shall occur in phases and knowledge transfer shall be an ongoing process throughout the entire project. Laserfiche will also provide knowledge transfer both verbally and through written documentation and procedures.

When working directly with our customer, Laserfiche provides engineers well-versed in all aspects of a project’s lifecycle. A typical project flow runs as follows: project kickoff, requirements gathering, development, user acceptance training/testing, formal user training, go-live and stabilization. Knowledge transfer occurs during the entire project but agreed upon documentation is typically delivered between the UAT/Go-Live phases of the project.

Laserfiche's most successful projects follow a train-the-trainer approach, where a subset of business/admin users are trained directly by the Laserfiche staff and become well versed in the documentation provided. From there, these internal individuals are points of contact for onboarding new users or helping existing users work through any issues.

**3. Deliverables**. Laserfiche will work with each customer to develop the following deliverables in the assessment of the Participating Agencies current system and proposed solution:

**A.** Work Plan/Timeline: Provide work timeline with estimated days/hours required to complete the Discovery/Assessment of Existing Records, System, and Procedures

**B.** Findings Report with comprehensive findings resulting from the assessment/evaluations and onsite meeting completed.

**C.** Key Stakeholder Meeting: Conduct one on-site presentation of the gap analysis findings identified form the assessment/ evaluations and onsite meetings to the Participating Agency's identified project team.

**D.** Suggested retention processes that are applicable across various record generating processes and systems.

**E.** Include costs and strategies for implementing such automated processes across different enterprise systems.

**F.** A reduction of impacts to existing and future document users and resources, including processes that access, use, generate, store or destroy documents (including minimizing new requirements, responsibilities and processes related to managing documents).

**G.** Recommendations on maximizing the availability and accessibility of documents for business and transparency purposes.

**H.** Recommendations on minimizing the long-term costs associated with managing documents of all forms, including costs associated with onsite and offsite document filing, storing and retrieving, as well as storing and backing up electronic documents.

**I.** Recommendations on minimizing Participating Agency's liability associated with retaining and destroying documents and comply with applicable regulations and laws.

**J.** Document destruction, transference and conversion guidelines.

**K.** Identify space (internal or external) and equipment necessary for filing records. Determine if offsite records storage can be reduced for cost reduction for the Participating Agency.

**L.** General guidance on executing strategies for successful adoption of new policies, processes and procedures.

**M.** Recommendations for change management, training and other ongoing program management activities such as self-auditing.

**N.** Additional recommendations as needed.

**O.** Work Plan/Schedule for recommendations and strategies (including milestones and phases)

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# TAB 8
# VALUE ADDED PRODUCTS AND SERVICES

Laserfiche lists integrations available from our Professional Developer Partnership (PDP) members on the Integration Marketplace (https://www.laserfiche.com/products/marketplace/). These integrations compliment the Laserfiche product line.

Additionally, the Laserfiche Professional Services Group can work with customers and resellers to meet the customer's unique product needs. This services rate may be found in our separately provided price list.

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# TAB 9
# REQUIRED DOCUMENTS

- Federal Funds Certifications
- Clean Air and Water Act & Debarment Notice
- Contractors Requirements
- Required Clauses for Federal Assistance by FTA
- Federal Required Signatures
- Antitrust Certification Statements Texas Government Code § 2155.005
- State Notice Addendum

# FEDERAL FUNDS CERTIFICATIONS

Participating Agencies may elect to use federal funds to purchase under the Master Agreement. The following certifications and provisions may be required and apply when a Participating Agency expends federal funds for any purchase resulting from this procurement process. Pursuant to 2 C.F.R. § 200.326, all contracts, including small purchases, awarded by the Participating Agency and the Participating Agency's subcontractors shall contain the procurement provisions of Appendix II to Part 200, as applicable.

**APPENDIX II TO 2 CFR PART 200**

(A) Contracts for more than the simplified acquisition threshold currently set at $250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

- Pursuant to Federal Rule (A) above, when a Participating Agency expends federal funds, the Participating Agency and Offeror reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

(B) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of $10,000)

- Pursuant to Federal Rule (B) above, when a Participating Agency expends federal funds, the Participating Agency reserves the right to terminate any agreement in excess of $10,000 resulting from this procurement process in the event of a breach or default of the agreement by Offeror as detailed in the terms of the contract

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 CFR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

- Pursuant to Federal Rule (C) above, when a Participating Agency expends federal funds on any federally assisted construction contract, the equal opportunity clause is incorporated by reference herein.

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay

wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non- Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

- Pursuant to Federal Rule (D) above, when a Participating Agency expends federal funds during the term of an award for all contracts and subgrants for construction or repair, offeror will be in compliance with all applicable Davis-Bacon Act provisions
- Any Participating Agency will include any current and applicable prevailing wage determination in each issued solicitation and provide Offeror with any required documentation and/or forms that must be completed by Offeror to remain in compliance the applicable Davis-Bacon Act provisions.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

- Pursuant to Federal Rule (E) above, when a Participating Agency expends federal funds, offeror certifies that offeror will be in compliance with all applicable provisions of the Contract Work Hours and Safety Standards Act during the term of an award for all contracts by Participating Agency resulting from this procurement process.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

- Pursuant to Federal Rule (F) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term of an award for all contracts by Participating Agency resulting from this procurement process, the offeror agrees to comply with all applicable requirements as referenced in Federal Rule (F) above

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended— Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non- Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

- Pursuant to Federal Rule (G) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term of an award for all contracts by Participating Agency member resulting from this procurement process, the offeror agrees to comply with all applicable requirements as referenced in Federal Rule (G) above

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

- Pursuant to Federal Rule (H) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term of an award for all contracts by Participating Agency resulting from this procurement process, the offeror certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency. If at any time during the term of an award the offeror or its principals becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency, the offeror will notify the Participating Agency

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

- Pursuant to Federal Rule (I) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term and after the awarded term of an award for all contracts by Participating Agency resulting from this procurement process, the

offeror certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). The undersigned further certifies that:

- No Federal appropriated funds have been paid or will be paid for on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.
- If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying”, in accordance with its instructions.
- The undersigned shall require that the language of this certification be included in the award documents for all covered sub-awards exceeding $100,000 in Federal funds at all appropriate tiers and all subrecipients shall certify and disclose accordingly.

**RECORD RETENTION REQUIREMENTS FOR CONTRACTS INVOLVING FEDERAL FUNDS**

When federal funds are expended by Participating Agency for any contract resulting from this procurement process, offeror certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.334. The offeror further certifies that offeror will retain all records as required by 2 CFR § 200.334 for a period of three years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

**CERTIFICATION OF COMPLIANCE WITH THE ENERGY POLICY AND CONSERVATION ACT**

When Participating Agency expends federal funds for any contract resulting from this procurement process, offeror certifies that it will comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.; 49 C.F.R. Part 18).

**CERTIFICATION OF COMPLIANCE WITH BUY AMERICA PROVISIONS**

To the extent purchases are made with Federal Highway Administration, Federal Railroad Administration, or Federal Transit Administration funds, offeror certifies that its products comply with all applicable provisions of the Buy America Act and agrees to provide such certification or applicable waiver with respect to specific products to any Participating Agency upon request. Participating Agencies will clearly identify whether Buy America Provisions apply in any issued solicitation. Purchases made in accordance with the Buy America Act must still follow the applicable procurement rules calling for free and open competition.

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## CERTIFICATION OF ACCESS TO RECORDS

Offeror agrees that the Inspector General of the Agency or any of their duly authorized representatives shall have access to any non-financial documents, papers, or other records of offeror that are pertinent to offeror's discharge of its obligations under the Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to offeror's personnel for the purpose of interview and discussion relating to such documents. This right of access will last only as long as the records are retained.

## CERTIFICATION OF APPLICABILITY TO SUBCONTRACTORS

Offeror agrees that all contracts it awards pursuant to the Contract shall be bound by the foregoing terms and conditions.

# CLEAN AIR AND WATER ACT AND DEBARMENT NOTICE

By the signature below (Under Federal Required Signatures), I, the Vendor, am in compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act of 1970, as Amended (42 U.S. C. 1857 (h), Section 508 of the Clean Water Act, as amended (33 U.S.C. 1368), Executive Order 117389 and Environmental Protection Agency Regulation, 40 CFR Part 15 as required under OMB Circular A-102, Attachment O, Paragraph 14 (1) regarding reporting violations to the grantor agency and to the United States Environment Protection Agency Assistant Administrator for the Enforcement.

I hereby further certify that my company has not been debarred, suspended or otherwise ineligible for participation in Federal Assistance programs under Executive Order 12549, “Debarment and Suspension”, as described in the Federal Register and Rules and Regulations.

# CONTRACTOR REQUIRMENTS

**Contractor Certification**
**Contractor's Employment Eligibility**
By entering the contract, Contractor warrants compliance with the Federal Immigration and Nationality Act (FINA), and all other federal and state immigration laws and regulations. The Contractor further warrants that it is in compliance with the various state statues of the states it is will operate this contract in.

Participating Government Entities including School Districts may request verification of compliance from any Contractor or subcontractor performing work under this Contract. These Entities reserve the right to confirm compliance in accordance with applicable laws.

Should the Participating Entities suspect or find that the Contractor or any of its subcontractors are not in compliance, they may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Contract for default, and suspension and/or debarment of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.

The offeror complies and maintains compliance with the appropriate statutes which requires compliance with federal immigration laws by State employers, State contractors and State subcontractors in accordance with the E-Verify Employee Eligibility Verification Program.

Contractor shall comply with governing board policy of the NCPA Participating entities in which work is being performed.

**Fingerprint & Background Checks**
If required to provide services on school district property at least five (5) times during a month, contractor shall submit a full set of fingerprints to the school district if requested of each person or employee who may provide such service. Alternately, the school district may fingerprint those persons or employees. An exception to this requirement may be made as authorized in Governing Board policy. The district shall conduct a fingerprint check in accordance with the appropriate state and federal laws of all contractors, subcontractors or vendors and their employees for which fingerprints are submitted to the district. Contractor, subcontractors, vendors and their employees shall not provide services on school district properties until authorized by the District.

The offeror shall comply with fingerprinting requirements in accordance with appropriate statutes in the state in which the work is being performed unless otherwise exempted.

Contractor shall comply with governing board policy in the school district or Participating Entity in which work is being performed.

**Business Operations in Sudan, Iran**
In accordance with A.R.S. 35-391 and A.R.S. 35-393, the Contractor hereby certifies that the contractor does not have scrutinized business operations in Sudan and/or Iran.

# REQUIRED CLAUSES FOR FEDERAL ASSISTANCE PROVIDED BY FTA

## ACCESS TO RECORDS AND REPORTS

Contractor agrees to:

a) Maintain all non-financial books, records, accounts and reports required under this Contract for a period of not less than two (2) years after the date of termination or expiration of this Contract or any extensions thereof except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case Contractor agrees to maintain same until the FTA Administrator, the U.S. DOT Office of the Inspector General, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

b) Permit any of the foregoing parties to inspect all non-financial work, materials, and other data and records that pertain to the Project, and to audit the non-financial books, records, and accounts that pertain to the Project and to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed for the purpose of audit and examination. The right of access detailed in this section continues only as long as the records are retained.

*FTA does not require the inclusion of these requirements of Article 1.01 in subcontracts.*

## CIVIL RIGHTS / TITLE VI REQUIREMENTS

1) Non-discrimination. In accordance with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, Section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, Section 202 of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12132, and Federal Transit Law at 49 U.S.C. § 5332, Contractor or subcontractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, marital status age, or disability. In addition, Contractor agrees to comply with applicable Federal implementing regulations and other applicable implementing requirements FTA may issue that are flowed to Contractor from Awarding Participating Agency.

2) Equal Employment Opportunity. The following Equal Employment Opportunity requirements apply to this Contract:

   a. Race, Color, Creed, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal Transit Law at 49
   U.S.C. § 5332, the Contractor agrees to comply with all applicable Equal Employment Opportunity requirements of U.S. Dept. of Labor regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor, 41 CFR, Parts 60 et seq., and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may affect construction activities undertaken in the course of this Project. Contractor agrees

to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, marital status, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, Contractor agrees to comply with any implementing requirements FTA may issue that are flowed to Contractor from Awarding Participating Agency.

b. Age. In accordance with the Age Discrimination in Employment Act (ADEA) of 1967, as amended, 29 U.S.C. Sections 621 through 634, and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age Discrimination in Employment Act", 29 CFR Part 1625, prohibit employment discrimination by Contractor against individuals on the basis of age, including present and prospective employees. In addition, Contractor agrees to comply with any implementing requirements FTA may issue that are flowed to Contractor from Awarding Participating Agency.

c. Disabilities. In accordance with Section 102 of the Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. Sections 12101 *et seq.*, prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Contractor agrees that it will comply with the requirements of the Equal Employment Opportunity Commission (EEOC), "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR, Part 1630, pertaining to employment of persons with disabilities and with their responsibilities under Titles I through V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions.

d. Segregated Facilities. Contractor certifies that their company does not and will not maintain or provide for their employees any segregated facilities at any of their establishments, and that they do not and will not permit their employees to perform their services at any location under the Contractor's control where segregated facilities are maintained. As used in this certification the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion or national origin because of habit, local custom, or otherwise. Contractor agrees that a breach of this certification will be a violation of this Civil Rights clause.

3) Solicitations for Subcontracts, Including Procurements of Materials and Equipment. In all solicitations, either by competitive bidding or negotiation, made by Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Contractor of Contractor's obligations under this Contract and the regulations relative to non-discrimination on the grounds of race, color, creed, sex, disability, age or national origin.

4) Sanctions of Non-Compliance. In the event of Contractor's non-compliance with the non-discrimination provisions of this Contract, Public Agency shall impose such Contract sanctions as it or the FTA may determine to be appropriate, including, but not limited to: 1) Withholding of payments to Contractor under the Contract until Contractor complies, and/or; 2) Cancellation, termination or suspension of the Contract, in whole or in part.

*Contractor agrees to include the requirements of this clause in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.*

## DISADVANTAGED BUSINESS PARTICIPATION

This Contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, "*Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs"*, therefore, it is the policy of the Department of Transportation (DOT) to ensure that Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in the performance of DOT-assisted contracts.

1) Non-Discrimination Assurances. Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. Contractor shall carry out all applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or other such remedy as public agency deems appropriate. Each subcontract Contractor signs with a subcontractor must include the assurance in this paragraph. (See 49 CFR 26.13(b)).

2) Prompt Payment. Contractor is required to pay each subcontractor performing Work under this prime Contract for satisfactory performance of that work no later than thirty (30) days after Contractor's receipt of payment for that Work from public agency. In addition, Contractor is required to return any retainage payments to those subcontractors within thirty (30) days after the subcontractor's work related to this Contract is satisfactorily completed and any liens have been secured. Any delay or postponement of payment from the above time frames may occur only for good cause following written approval of public agency. This clause applies to both DBE and non-DBE subcontractors. Contractor must promptly notify public agency whenever a DBE subcontractor performing Work related to this Contract is terminated or fails to complete its Work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. Contractor may not terminate any DBE subcontractor and perform that Work through its own forces, or those of an affiliate, without prior written consent of public agency.

3) DBE Program. In connection with the performance of this Contract, Contractor will cooperate with public agency in meeting its commitments and goals to ensure that DBEs shall have the maximum practicable opportunity to compete for subcontract work, regardless of whether a contract goal is set for this Contract. Contractor agrees to use good faith efforts to carry out a policy in the award of its subcontracts, agent agreements, and procurement contracts which will, to the fullest extent, utilize DBEs consistent with the efficient performance of the Contract.

## ENERGY CONSERVATION REQUIREMENTS

Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plans issued under the Energy Policy and Conservation Act, as amended, 42 U.S.C. Sections 6321 *et seq.* and 41 CFR Part 301-10.

## FEDERAL CHANGES

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, listed directly or by reference in the Contract between Public Agency and the FTA, and those applicable regulatory and procedural updates that are communicated to Contractor by Public Agency, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this Contract.

## INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The provisions include, in part, certain Standard Terms and Conditions required by the U.S. Department of Transportation (DOT), whether or not expressly set forth in the preceding Contract provisions. All contractual provisions required by the DOT and applicable to the scope of a particular Contract awarded to Contractor by a Public Agency as a result of solicitation, as set forth in the most current FTA Circular 4220.1F, published February 8th, 2016, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. Contractor agrees not to knowingly perform any act, knowingly fail to perform any act, or refuse to comply with any reasonable public agency requests that would directly cause public agency to be in violation of the FTA terms and conditions.

## NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES

Agency and Contractor acknowledge and agree that, absent the Federal Government's express written consent and notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to agency, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract.
*Contractor agrees to include the above clause in each subcontract financed in whole or in part with federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.*

## PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS

Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to this Contract. Upon execution of the underlying Contract, Contractor certifies or affirms, to the best of its knowledge, the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to me

made, pertaining to the underlying Contract or the FTA assisted project for which this Contract Work is being performed.

In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Contractor to the extent the Federal Government deems appropriate.

Contractor also acknowledges that if it makes, or causes to me made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307 (n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

*Contractor agrees to include the above clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.*

## FEDERAL REQUIRED SIGNATURES

Offeror certifies compliance with all provisions, laws, acts, regulations, etc. as specifically noted in the pages above. It is further acknowledged that offeror agrees to comply with all federal, state, and local laws, rules, regulations and ordinances as applicable.

| | |
|---|---|
| Offeror | Compulink Management Center, Inc. dba Laserfiche |
| Address | 3443 Long Beach Blvd. |
| City/State/Zip | Long Beach, CA 90807 |
| Authorized Signature | DocuSigned by: Peter Wayman 55434A302F9F438... Peter Wayman, President |
| Date | 11/16/2022 |

# ANTITRUST CERTIFICATION STATEMENTS
# TEXAS GOVERNMENT CODE § 2155.005

I affirm under penalty of perjury of the laws of the State of Texas that:

(1) I am duly authorized to execute this contract on my own behalf or on behalf of the company, corporation, firm, partnership or individual (Company) listed below;

(2) In connection with this bid, neither I nor any representative of the Company has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;

(3) In connection with this bid, neither I nor any representative of the Company has violated any federal antitrust law; and

(4) Neither I nor any representative of the Company has directly or indirectly communicated any of the contents of this bid to a competitor of the Company or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Company.

| | |
|---|---|
| Company Name | Compulink Management Center, Inc. dba Laserfiche |
| Address | 3443 Long Beach Blvd |
| City/State/Zip | Long Beach, CA 90807 |
| Telephone Number | 562-988-1688 |
| Fax Number | Not Applicable |
| Email Address | notices@laserfiche.com |
| Printed Name | Peter Wayman |
| Title | President |
| Authorized Signature | DocuSigned by: Peter Wayman 55434A302F9F438... |

DocuSign Envelope ID: 82679202-3385-4F99-95AC-0002086D87EE


# STATE NOTICE ADDENDUM

The National Cooperative Purchasing Alliance (NCPA), on behalf of NCPA and its current and potential participants to include all county, city, special district, local government, school district, private K-12 school, higher education institution, state, tribal government, other government agency, healthcare organization, nonprofit organization and all other Public Agencies located nationally in all fifty states, issues this Request for Proposal (RFP) to result in a national contract.

For your reference, the links below include some, but not all, of the entities included in this proposal:

http://www.usa.gov/Agencies/State_and_Territories.shtml

https://www.usa.gov/local-governments

**26-064**

**Type of Action:**
☒ **Resolution**
☐ **Ordinance**
☐ **TIDD Resolution**

# City Council Action and Executive Summary

| | | | |
|---|---|---|---|
| **District:** | ☒ 1 ☒ 2 ☒ 3 ☒ 4 ☒ 5 ☒ 6 ☐ N/A | | |
| **1st Reading:** | | **Adopted:** | November 17, 2025 |
| **Drafter:** | Vanessa Perez | **Department:** | Financial Services |

**Title:** **A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT BUDGET ADJUSTMENTS FOR VARIOUS CITY DEPARTMENTS THROUGH AN AMENDMENT TO THE CITY'S ADOPTED FISCAL YEAR (FY) 2025-26 BUDGET.**

**TYPE OF ACTION:** ☒ **Administrative** ☐ **Legislative** ☐ **Quasi-Judicial**

## PURPOSE(S) OF ACTION:
To amend the FY2026 budget through various adjustments.

## BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
City of Las Cruces (City) staff will prepare budget adjustments for the fiscal year starting July 1, 2025 through June 30, 2026. Adjustments include funding for supplies, services, equipment, and projects to meet the demands of a growing community and to align budgets for effective and efficient City operations.

The budget adjustments proposed within this Resolution will not deplete the City's 2/12ths reserve requirement for the General Fund.

## SUPPORT INFORMATION:
Exhibit "A" - Fund Summaries
Attachment "A" - Adjustment Summary

## PLAN(S):
None

## COMMITTEE/BOARD REVIEW:
None

## DOES THIS AMEND THE BUDGET?:
☒ Yes
☐ No

## BUDGET / FISCAL IMPACT:

**BUDGETED AMOUNT:** Various **AVAILABLE AMOUNT:** Various **EXPENDITURE AMOUNT:** Various

**Funding Source(s):**
Various

**Overall Budget Impact:**
Please refer to Exhibit "A" Fund Summaries

**Does this action amend the Capital Improvement Plan (CIP)?**
☐ Yes
☒ No

**OPTIONS / ALTERNATIVES:**
1. Vote “Yes”; this will approve the Resolution and accept the budget adjustments as presented, and will adjust the City’s FY2025-26 budget.
2. Vote “No”; this will not approve the Resolution nor accept the budget adjustments as presented, and will not adjust the City’s FY2025-26 budget.
3. Vote to “Amend”; this will delay the process of spending the funds within the predetermined funding schedule and require direction to staff.
4. Vote to “Table”; this will impact the City’s ability to utilize funds and may impact programs and services.

**REFERENCE INFORMATION:**
Attachment "A" Budget Adjustment Summary

**RESOLUTION 26-064**

**A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT BUDGET ADJUSTMENTS FOR VARIOUS CITY DEPARTMENTS THROUGH AN AMENDMENT TO THE CITY'S ADOPTED FISCAL YEAR (FY) 2025-26 BUDGET.**

The City Council is informed that:

**WHEREAS,** City of Las Cruces (City) staff members have prepared budget adjustments for the fiscal year starting July 1, 2025 through June 30, 2026; and

**WHEREAS,** the budget adjustments includes funding for supplies, services, equipment, and projects to meet the demands of a growing community and to align budgets for effective and efficient City operations; and

**WHEREAS,** this adjustment will not deplete the General Fund 2/12ths reserve requirement.

**NOW, THEREFORE,** Be it Resolved by the Governing Body of the City of Las Cruces:

**(I)**

**THAT** the FY2026 budget adjustments as indicated in Exhibit "A", attached hereto and made a part of this Resolution, are hereby approved.

**(II)**

**THAT** the City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

**DONE AND APPROVED this** day of

APPROVED

_____

ATTEST:

_____

**Moved by:**

**Seconded by:**

**AYES**

**NAYS**

*Exhibit "A"*

# *CITY OF LAS CRUCES*

## *BUDGET ADJUSTMENT REQUEST*

### *BUDGET FISCAL YEAR 2025-26*

| | 2705 TELSHOR FACILITY 2025-26 | | | |
|---|---|---|---|---|
| | **Original Budget** | **Amended Budget** | **Req. Adjustment** | **Adjusted Budget** |
| **RESOURCES** | | | | |
| Beginning Balance | $ 61,470,004 | 0 | 0 | 61,470,004 |
| **Revenues** | | | | |
| Municipal Gross Receipts Tax | 0 | 0 | 0 | 0 |
| Public Safety Gross Receipts Tax | 0 | 0 | 0 | 0 |
| Hold Harmless Replacement GRT | 0 | 0 | 0 | 0 |
| State-Shared Gross Receipts Tax | 0 | 0 | 0 | 0 |
| Environmental Gross Receipts Tax | 0 | 0 | 0 | 0 |
| County Environmental Gross Receipts Tax | 0 | 0 | 0 | 0 |
| Internet Sales Gross Receipts Tax | 0 | 0 | 0 | 0 |
| Gasoline Tax | 0 | 0 | 0 | 0 |
| Cannabis Excise Tax | 0 | 0 | 0 | 0 |
| Lodgers Tax | 0 | 0 | 0 | 0 |
| Property Taxes | 0 | 0 | 0 | 0 |
| Payment In Lieu of Property Tax | 0 | 0 | 0 | 0 |
| Franchise Fees | 0 | 0 | 0 | 0 |
| Payment In Lieu of Franchise Fees | 0 | 0 | 0 | 0 |
| Licenses, Fees & Permits | 0 | 0 | 0 | 0 |
| Convention Center Fee | 0 | 0 | 0 | 0 |
| Auto License - State Shared | 0 | 0 | 0 | 0 |
| Fines & Forfeitures | 0 | 0 | 0 | 0 |
| Charges For Services | 60,000 | 60,000 | 0 | 60,000 |
| Natural Gas Sales - Commodity | 0 | 0 | 0 | 0 |
| Motor Pool Maintenances Charges | 0 | 0 | 0 | 0 |
| Fuel Charges | 0 | 0 | 0 | 0 |
| Intergovernmental | 0 | 0 | 0 | 0 |
| Investment Income | 0 | 0 | 0 | 0 |
| Miscellaneous Revenues | 25,000 | 25,000 | 0 | 25,000 |
| Federal Grants | 0 | 0 | 0 | 0 |
| State Grants | 0 | 0 | 0 | 0 |
| Local Grants | 0 | 0 | 0 | 0 |
| Debt Service | 0 | 0 | 0 | 0 |
| **Total Revenues** | **85,000** | **85,000** | **0** | **85,000** |
| **TOTAL RESOURCES** | **$ 61,555,004** | **85,000** | **0** | **61,555,004** |
| **Expenditures** | | | | |
| General Government | 0 | 0 | 0 | 0 |
| Legislative | 0 | 0 | 0 | 0 |
| Municipal Court | 0 | 0 | 0 | 0 |
| City Manager-300 | 15,162,198 | 17,326,198 | (3,850,000) | 13,476,198 |
| Legal | 0 | 0 | 0 | 0 |
| Las Cruces Police Department | 431,410 | 539,604 | 0 | 539,604 |
| Las Cruces Fire Department | 2,000,000 | 2,000,000 | 0 | 2,000,000 |
| Utilities | 0 | 0 | 0 | 0 |
| Economic Development | 0 | 0 | 0 | 0 |
| Internal Audit | 0 | 0 | 0 | 0 |
| Assistant City Manager-400 | 0 | 0 | 0 | 0 |
| Human Resources | 0 | 0 | 0 | 0 |
| Financial Services | 0 | 0 | 0 | 0 |
| Information Technology | 0 | 0 | 0 | 0 |
| Fleet | 0 | 0 | 0 | 0 |
| Assistant City Manager-500 | 0 | 0 | 0 | 0 |
| Parks & Recreation | 3,798,498 | 3,798,498 | 0 | 3,798,498 |
| Community Development | 0 | 0 | 0 | 0 |
| Quality of Life | 0 | 0 | 0 | 0 |
| Public Works | 95,300 | 963,792 | 118,125 | 1,081,917 |
| Legislative Reserve | 0 | 0 | 0 | 0 |
| **Total Expenditures** | **$ 21,487,406** | **24,628,092** | **(3,731,875)** | **20,896,217** |
| **Other Resources** | | | | |
| Operating Transfers In | 0 | 0 | 0 | 0 |
| Operating Transfers Out | (1,301,766) | (1,596,747) | 0 | (1,596,747) |
| **Total Other Resources** | **$ (1,301,766)** | **(1,596,747)** | **0** | **(1,596,747)** |
| Accrual Adjustments | 0 | 0 | 0 | 0 |
| **ENDING BALANCE** | **$ 38,765,832** | **(26,139,839)** | **3,731,875** | **39,062,040** |

ATTACHMENT "A"

| FUND | FUND DESCRIPTION | DEPARTMENT | PROGRAM | TYPE | INCREASE AMOUNT | DECREASE AMOUNT | DESCRIPTION |
|---|---|---|---|---|---|---|---|
| 2705 | TELSHOR FACILITY | PUBLIC WORKS | FACILITIES MANAGEMENT | EXPENSE | $ 118,125.00 | | Additional funding needed for MVCOH bathroom repairs. Following consultation with management, it has been determined that these repairs are a critical priority and cannot be delayed to await other financial or competitive grant resources |
| 2705 | TELSHOR FACILITY | CITY MANAGER | HOUSING NEIGHBORHOOD SERVICES | EXPENSE | $ 150,000.00 | | Due to recent economic events, our community is experiencing increased food insecurity. Organizations are actively working to secure more food dontations to help offset the demand, but they anticipate needing funds to purchase food. $100,000 will go to Casa de Peregrinos, $35,000 to El Caldito Soup Kitchen, and $15k will be used as reserve funds for Senior Meals and other food initiatives that may arise. |
| 2705 | TELSHOR FACILITY | CITY MANAGER | HOUSING NEIGHBORHOOD SERVICES | EXPENSE | | $ 4,000,000.00 | Returning budget to Telshor fund from Peachtree project as another funding source was acquired. |

**26-065**

**Type of Action:**
☒ **Resolution**
☐ **Ordinance**
☐ **TIDD Resolution**

# City Council Action and Executive Summary

| | | | |
|---|---|---|---|
| **District:** | ☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☒ N/A | | |
| **1st Reading:** | | **Adopted:** | November 17, 2025 |
| **Drafter:** | Gaby Prats | **Department:** | Financial Services |

| | |
|---|---|
| **Title:** | **A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT A GRANT AWARD FOR THE POLICE DEPARTMENT THROUGH AN AMENDMENT TO THE CITY'S ADOPTED FY2026 BUDGET.** |

**TYPE OF ACTION:** ☒ **Administrative** ☐ **Legislative** ☐ **Quasi-Judicial**

## PURPOSE(S) OF ACTION:
To accept a grant award and amend the FY26 budget.

## BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
The City of Las Cruces (City) relies on grant funding for many of the critical programs provided each year for the residents of Las Cruces. Grant funding awards are received throughout the fiscal year and are not budgeted during the normal fiscal year budgeting process. Funds are not budgeted until the City has received a grant award agreement due to the unpredictable nature of funding levels and timing.

Per the City's Grants Administration Program Policy, the City Manager, or his designee, may execute grant agreements with funding agencies. Upon receipt of the fully executed agreement from the funding agency, the Council may adjust the budget.

The request for City Council is to accept the budget adjustment to be used by the department for the scope of work as defined by the grant agreement.

## SUPPORT INFORMATION:
Exhibit "A" - FY26 Fund Summary 11-17-25
Attachment "A" - Grant Listing
Attachment "B" - PD - FFY26 VOCA Fully Executed Agreement

## PLAN(S):
Elevate Las Cruces

## COMMITTEE/BOARD REVIEW:
None

## DOES THIS AMEND THE BUDGET?:
☒ Yes
☐ No

**Does this action amend the Capital Improvement Plan (CIP)?**

☐ Yes

☒ No

**OPTIONS / ALTERNATIVES:**

1. Vote "Yes"; this will approve the Resolution to accept the grant award as presented and amend the City's FY2026 Budget.
2. Vote "No"; this will not approve the Resolution to accept the grant award as presented and amend the City's FY2026 Budget.
3. Vote to "Amend"; this could delay the Resolution and the process of spending the grant funds within the predetermined grant schedule and require direction to staff.
4. Vote to "Table"; this will delay the Resolution and will impact the implementation of the grant agreement, the City department's ability to utilize the funds and return the grant funds to the granting agency.

**RESOLUTION 26-065**

**A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT A GRANT AWARD FOR THE POLICE DEPARTMENT THROUGH AN AMENDMENT TO THE CITY'S ADOPTED FY2026 BUDGET.**

The City Council is informed that:

**WHEREAS**, the City has received notice of a grant award for the Police Department; and

**WHEREAS**, the grant will be used as designated in the scope of work and within the specified time period as shown in the grant agreement executed by the City Manager, or his designee; and

**WHEREAS**, the grant agreement that is the subject of this budget adjustment will be attached to the Resolution with a Summary, as Attachment "A"; and each agreement will be attached as subsequent attachments.

**NOW, THEREFORE**, Be it Resolved by the Governing Body of the City of Las Cruces:

**(I)**

**THAT** the City hereby amends the FY2026 City Budget and accept the grant award as shown in the Fund Summary, Exhibit "A", attached hereto and made part of this Resolution, is hereby approved.

**(II)**

**THAT** the City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

**DONE AND APPROVED this** day of

APPROVED

_____
Mayor

ATTEST:

_____
City Clerk

**Moved by:**

**Seconded by:**

**AYES**

**NAYS**

*CITY OF LAS CRUCES* *Exhibit "A"*

*BUDGET ADJUSTMENT REQUEST*

*BUDGET FISCAL YEAR 2025-26*

| | 2100 SPECIAL REVENUE REIMB GRANTS 2025-26 | | | |
|---|---|---|---|---|
| | Original Budget | Amended Budget | Req. Adjustment | Adjusted Budget |
| **RESOURCES** | | | | |
| Beginning Balance | $ 249,231 | 0 | 0 | 249,231 |
| **Revenues** | | | | |
| Municipal Gross Receipts Tax | 0 | 0 | 0 | 0 |
| Public Safety Gross Receipts Tax | 0 | 0 | 0 | 0 |
| Hold Harmless Replacement GRT | 0 | 0 | 0 | 0 |
| State-Shared Gross Receipts Tax | 0 | 0 | 0 | 0 |
| Environmental Gross Receipts Tax | 0 | 0 | 0 | 0 |
| County Environmental Gross Receipts Tax | 0 | 0 | 0 | 0 |
| Internet Sales Gross Receipts Tax | 0 | 0 | 0 | 0 |
| Gasoline Tax | 0 | 0 | 0 | 0 |
| Cannabis Excise Tax | 0 | 0 | 0 | 0 |
| Lodgers Tax | 0 | 0 | 0 | 0 |
| Property Taxes | 0 | 0 | 0 | 0 |
| Payment In Lieu of Property Tax | 0 | 0 | 0 | 0 |
| Franchise Fees | 0 | 0 | 0 | 0 |
| Payment In Lieu of Franchise Fees | 0 | 0 | 0 | 0 |
| Licenses, Fees & Permits | 0 | 0 | 0 | 0 |
| Convention Center Fee | 0 | 0 | 0 | 0 |
| Auto License - State Shared | 0 | 0 | 0 | 0 |
| Fines & Forfeitures | 0 | 0 | 0 | 0 |
| Charges For Services | 0 | 0 | 0 | 0 |
| Natural Gas Sales - Commodity | 0 | 0 | 0 | 0 |
| Motor Pool Maintenances Charges | 0 | 0 | 0 | 0 |
| Fuel Charges | 0 | 0 | 0 | 0 |
| Intergovernmental | 0 | 0 | 0 | 0 |
| Investment Income | 0 | 0 | 0 | 0 |
| Miscellaneous Revenues | 182,000 | 207,500 | 0 | 207,500 |
| Federal Grants | 9,229,523 | 5,147,914 | 72,250 | 5,220,164 |
| State Grants | 4,573,536 | 17,763,804 | 0 | 17,763,804 |
| Local Grants | 0 | 805,000 | 0 | 805,000 |
| Debt Service | 0 | 0 | 0 | 0 |
| **Total Revenues** | **13,985,059** | **23,924,218** | **72,250** | **23,996,468** |
| **TOTAL RESOURCES** | **$ 14,234,290** | **23,924,218** | **72,250** | **24,245,699** |
| **Expenditures** | | | | |
| General Government | 0 | 0 | 0 | 0 |
| Legislative | 0 | 0 | 0 | 0 |
| Municipal Court | 0 | 0 | 0 | 0 |
| City Manager-300 | 5,768,725 | 13,261,056 | 0 | 13,261,056 |
| Legal | 0 | 0 | 0 | 0 |
| Las Cruces Police Department | 1,581,852 | 1,259,753 | 72,250 | 1,332,003 |
| Las Cruces Fire Department | 568,628 | 1,313,759 | 0 | 1,313,759 |
| Utilities | 194,431 | 0 | 0 | 0 |
| Economic Development | 2,869,028 | 2,969,028 | 0 | 2,969,028 |
| Internal Audit | 0 | 0 | 0 | 0 |
| Assistant City Manager-400 | 0 | 0 | 0 | 0 |
| Human Resources | 0 | 0 | 0 | 0 |
| Financial Services | 144,821 | 1,157,615 | 0 | 1,157,615 |
| Information Technology | 0 | 0 | 0 | 0 |
| Fleet | 0 | 0 | 0 | 0 |
| Assistant City Manager-500 | 512,694 | 1,148,866 | 0 | 1,148,866 |
| Parks & Recreation | 446,219 | 834,064 | 0 | 834,064 |
| Community Development | 400,000 | 400,000 | 0 | 400,000 |
| Quality of Life | 1,447,022 | 1,601,439 | 0 | 1,601,439 |
| Public Works | 51,638 | 51,638 | 0 | 51,638 |
| Legislative Reserve | 0 | 0 | 0 | 0 |
| **Total Expenditures** | **$ 13,985,058** | **23,997,218** | **72,250** | **24,069,468** |
| **Other Resources** | | | | |
| Operating Transfers In | 0 | 0 | 0 | 0 |
| Operating Transfers Out | 0 | 0 | 0 | 0 |
| **Total Other Resources** | **$ 0** | **0** | **0** | **0** |
| Accrual Adjustments | 0 | 0 | 0 | 0 |
| **ENDING BALANCE** | **$ 249,232** | **(73,000)** | **0** | **176,231** |

ATTACHMENT "A'

# CITY OF LAS CRUCES

*The following grant has been awarded to the City of Las Cruces*

**Today's Date:** 10/27/2025
**Grant Team Representative:** Perla Galindo
**Grant Award Amount:** $ 72,250.00
**Council Budget Adjustment Date:** 11/17/2025
**Grant Agreement #:** 15POVC-23-G-00427-ASSI
**ALN/CFDA#:** 16.575
**Grant Effective Date:** 10/01/2025
**Grant Reversion Date:** 09/30/2026
**Funding Agency:** New Mexico Crime Victims Reparation Commission

## PROJECT INFORMATION

**Grant Project Title:** FFY 2026 VOCA
**Type of Funding:** Federal Operating
**Type of Grant:** Competitive
**Match Description:** Local Cash Match
**Match Amount:** $ 18,063.00
**Match Percent/Ratio:**

**City Fiscal Year:** FY2026
**Funder Fiscal Year:** FY2026

**Grant Scope of Work: (Specify if this grant involves Sub-Grantees or Pass Through Grants)**
The grant award provides for the salaries and fringe benefits costs for two Crime Victim Advocates in the Police Department.

## DEPARTMENT INFORMATION

**Implementation Dept:** 320- Police
**User Dept:** SELECT

**Line of Business:** COMMUNITY OUTREACH
**Program:** COMMUNITY PARTNERSHIP
**Project Manager:** SEAN MULLEN
**Phone:** 575-528-4101
**Email:** smullen@lascruces.gov

**Line of Business:**
**Program:**
**Project Manager:**
**Phone:**
**Email:**

**Check box if implementation and user departments are the same:** ☑

## ACCOUNT STRINGS:

**Fund Number - Organization Number - Object Number - Amount for Revenue and Expense**
*(2100 for General Grants/4100 for Capital Grants)*

Revenue: 2100-20132001-599100- 2601B $72,250.00
Expenditure: 2100-20132001-601010- 2601B $72,250.00
Match: 1000-10432002-601010- $ 18,063.00

**Reimbursable Grant:** ☑ **Revenue Collected in Advance:** ☐

**Date to Accounting:**
**Project Number:** 2601B
**Project Created By:** JOSH SAFFELL
**Set-Up Date:**
**Accounting Comments:** GRANT REFERENCES FEDERAL

| | | |
|---|---|---|
| CVRC NEW MEXICO | **STATE OF NEW MEXICO**<br>**CRIME VICTIMS' REPARATION COMMISSION**<br>**Victims of Crime Act (VOCA) Victim Assistance Formula Grant** | Subrecipient Award<br>FFY2026 |

| | |
|---|---|
| 1. SUBRECIPIENT NAME AND ADDRESS (Including Zip Code)<br>City of Las Cruces<br>PO Box 20000<br>Las Cruces, NM 88004 | 6. PROJECT TITLE<br>FY2023 VOCA Victim Assistance |
| | 7. FEDERAL AWARD NUMBER:<br>15POVC-23-GG-00427-ASSI |
| 2. SUBRECIPIENT IRS/TAX ID NO.<br>85-6000147 | 8. AWARD EFFECTIVE:<br>10/01/2025 |
| 3. SUBRECIPIENT UEI NO.<br>J3ZLWA2K1X47 | 9. SUBGRANT AWARD NUMBER:<br>2026-VA-511 |
| 4. APPROVED INDIRECT COST RATE (IF APPLICABLE)<br>NA | 10. PROJECT PERIOD: FROM 10/01/2025 TO 9/30/2026<br>BUDGET PERIOD: FROM 10/01/2025 TO 9/30/2026 |
| 5. METHOD OF PAYMENT<br>Reimbursement | 11. PREVIOUS AWARD AMOUNT: $0.00 |
| | 12. SUBRECIPIENT FEDERAL AWARD AMOUNT: $72,250.00<br>SUBRECIPIENT MATCH REQUIREMENT: $18,063.00<br>TOTAL AWARD: $90,313.00 |

13. STATUTORY AUTHORITY FOR GRANT

This project is supported under 42 U.S.C. § 10603 (a) The New Mexico Crime Victims Reparation Commission FY23 VOCA VA Allocation is $8,800,274.00 for the award period 10/1/2022 to 9/30/2026, the Subrecipient federal award amount for this project period comes from this federal allocation.

14. CATALOG OF DOMESTIC FEDERAL ASSISTANCE (CFDA Number)

16.575 - Crime Victim Assistance

15. SPECIAL CONDITIONS

This award is not a R & D award. The above subgrant project is approved subject to such conditions or limitations as are set forth on the attached page(s).

16. AGENCY NAME signifies acceptance of this Victims of Crime Act (VOCA) Victim Assistance award in accordance with the applicable rules and regulations as set forth in the State and Federal Guidelines and in adherence to the special conditions provided.

| AGENCY APPROVAL | SUBRECIPIENT ACCEPTANCE |
|---|---|
| 17. NMCVRC AUTHORIZED OFFICAL<br>Frank Zubia, Director | 21. NAME AND TITLE OF SUBRECIPIENT FINANCIAL POINT OF CONTACT<br>Lesley Doyle Finance Director |
| 18. SIGNATURE OF AUTHORIZED OFFICIAL<br>DocuSigned by: Frank Zubia 16F1C244F21243F... | 22. SIGNATURE OF SUBRCIPIENT FINANCIAL POINT OF CONTACT<br>Signed by: Lesley Doyle 74084C912D40424... |
| 19. NMCVRC COMMISSION CHAIR<br>David Karst, Chair | 23. NAME AND TITLE OF AUTHORIZED SUBRECIPIENT OFFICIAL<br>Ikani Taumoepeau City Manager |
| 20. SIGNATURE OF COMMISSION CHAIR<br>Signed by: CA9BC1AF82864A8... | 24. SIGNATURE OF AUTHORIZED SUBRECIPIENT OFFICIAL<br>Signed by: Ikani Taumoepeau 8B8581626F58426... |

STATE OF NEW MEXICO
CRIME VICTIMS' REPARATION COMMISSION
FFY2026 Victims of Crime Act (VOCA) Victim Assistance Formula Grant Special Conditions

The Subrecipient shall administer the project for which this award is given in accordance with the applicable rules, regulations and conditions as set forth in the Federal and State Guidelines. In addition, the attached Special Conditions must be followed. By accepting this award, the Subrecipient assumes the following administrative and financial responsibilities:

I. PAYMENT: Payment is on a reimbursement basis.
II. TERMINATION: This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty days prior to the intended date of termination.
III. RECORDS AND AUDIT: Detailed expenditure records must be maintained. These records shall be subject to inspection by NMCVRC and its representative(s), and the United States Department of Justice, Office of Justice Programs. NMCVRC shall have the right to audit the expenditures both before and after payment. Payment under this Agreement shall not foreclose the right of NMCVRC to recover excessive and/or illegal payments.
IV. ASSIGNMENT: The Subrecipient shall not assign or transfer any interest in the Agreement without prior written approval from NMCVRC.
V. AMENDMENTS: This agreement shall not be altered, changed, or amended except by an instrument in writing executed by the parties hereto.
VI. EQUAL OPPORTUNITY COMPLIANCE: The Subrecipient agrees to abide by all Federal and State laws and rules and regulations, and executive orders of the Governor of the State of New Mexico pertaining to equal employment opportunity. The Subrecipient agrees that no person shall, on the basis of actual or perceived race, color, national origin, sex, religion, sexual preference, age or handicap, be excluded from employment with or participation in, be denied services, or be otherwise subjected to discrimination under any program or activity performed under this agreement. The Subrecipient agrees to submit an Office for Civil Rights certification of compliance form within 45 days of the beginning date of the grant award.
VII. EFFECTIVE DATE: The VOCA Victim Assistance grant as set forth in the approved program of the State of New Mexico Grant Application. The New Mexico Crime Victims Reparation Commission (NMCVRC) as referenced in the Victims of Crime Act (VOCA VA) authorizes this award. This award may be used for a period from October 1, 2025 through September 30, 2026.

The above Special Conditions become part of the Grant Award and are accepted by the subrecipient.

**1.** VOCA funds must be used for direct services to victims of crime in accordance with the conditions of the Victims of Crime Act (VOCA) of 1984, sections 1404(a)(2), and 1404(b)(1) and (2), 42 U.S.C. 10603(a)(2) and (b)(1) and (2), and the applicable program guidelines and regulations, as required. Subrecipient acknowledges their agency's award letter may also contain Special Restrictions and Conditions on your agency's award. Your agency is responsible for adherence to these restrictions.

**2.** The Subrecipient must be in compliance with specifications outlined in the Request for Proposals under which the approved application was submitted. The program Request for Proposal is hereby incorporated by reference into this award.

**3.** Grant funds may be used only for the purposes in the Subrecipient's approved application. The Subrecipient shall not undertake any work or activities that are not described in the grant application, or that use staff, equipment, or other goods or services paid for with grant funds, without prior written approval from NMCVRC.

**4.** The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Office for Victims of Crime, for the performance of this Agreement. If sufficient appropriations and authorization are not made this Agreement shall terminate upon written notice being given by NMCVRC to the Subrecipient.

**5.** The Subrecipient understands and agrees that misuse of award funds may result in a range of penalties, including suspension or termination of current and future funds, suspension or debarment from federal grants, recoupment

of monies provided under an award, and civil and/or criminal penalties.

6. The Primary Project Components (Project Plan) will guide the scope of work.

7. Payment is reimbursement only. In order to receive payment, the agency must submit an Invoice and Record of Match reflecting expenditures of the previous month into https://nmcvrcgrants.com/ by 11:59 PM on or before the 10th of each month. If the 10th is on a Friday, weekend or holiday the deadline will be the following business day by 11:59 PM. Subrecipients, unless mandated by additional monitoring and special conditions, are mandated to submit quarterly. Monthly invoice submission is optional. If documentation is late or inaccurate, reimbursement will be delayed until the following month or until the submitted documentation is corrected and may result in a change in subgrantee status to that of "high risk" or probationary status.

8. Maintain separate accounts and accounting records for the VOCA funds. Maintenance of project-based accounting records does not provide enough detail to track federal VOCA funds, therefore, VOCA funds must be accounted for separately to ensure they are not commingled with any other funding source.

9. Maintain and furnish to NMCVRC and the United States Department of Justice, upon request, detailed accounting and supportive records of expenditures and of the matching funds.

10. The Subrecipient agrees to supplement and not supplant state or local funds.

11. Subrecipient shall provide VOCA-funded direct services at no charge, unless NMCVRC grants a waiver allowing the subrecipient to generate program income by charging for services. Program income, where allowed, shall be subject to federal grant rules and the requirements of the DOJ Grants Financial Guide, which, as of July 8, 2016, require in most cases that any program income be restricted to the same uses as the sub-award funds and expended during the grant period in which it is generated.

12. Consultant compensation rates. Subrecipient acknowledges that consultants paid with award funds generally may not be paid at a rate in excess of $81.25 per hour, not to exceed $650 per day. To exceed this specified maximum rate, Subrecipient must submit to NMCVRC a detailed justification and have such justification approved by OVC through NMCVRC, prior to obligation or expenditure of such funds. Issuance of this award or approval of the award budget alone does not indicate approval of any consultant rate in excess of $81.25 per hour, not to exceed $650 per day. Although prior approval is not required for consultant rates below this specified maximum rate, Subrecipient is required to maintain documentation to support all daily or hourly consultant rates.

13. Due to requirements by the NM Department of Finance, all cash reimbursement invoices for grant expenditures made prior to June 30th will be due no later than July 10th, or an alternative date issued by NMCVRC. Cash reimbursement invoices received after the July deadline for expenditures and receipt of purchases made prior to the deadlines cannot be processed and those expenditures will become the responsibility of the Subrecipient.

14. The Subrecipient, upon final payment of the amount due under this Agreement, releases NMCVRC from all liabilities, claims, and obligations whatsoever arising from or under this Agreement.

15. The Subrecipient agrees to **inform** all potentially eligible victims with crime victims' compensation, **assist all eligible victims in filling out** the application, and **assist in submission** of applications to NMCVRC. In addition, the Subrecipient agrees to assist NMCVRC staff regarding compensation inquiries.

16. All staff within the organization providing direct services to victims must attend a minimum of one compensation workshop held by NMCVRC during the grant year.

17. The Subrecipient agrees to cooperate and coordinate services with and acknowledge services of other NMCVRC funded programs and other service providers in their region that serve victims of crime.

18. All Subrecipients that are working with victims must have a Limited English Proficiency (LEP) and accessibility plan and policy in place and in practice to ensure that LEP persons, Deaf and Hard of Hearing and individuals with disabilities have meaningful access to services. All staff must be provided with a copy of this plan and be trained on how to implement the policy and procedures.

**19.** The Subrecipient agrees to inform and assist eligible victims of crime with the New Mexico's Statewide Automated Victim Information and Notification Services (VINE) which accesses information about particular offenders, or a particular State and/or County inmate's release, transfer, or escape from participating agencies over the phone, through the internet, or by email. When applicable, the Subrecipient agrees to inform and assist eligible victims of crime with the New Mexico SAVIN (State Automated Victim Information Notification) System, a free service that provides information to crime victims and any interested members of the public with case status and hearing notifications on criminal court cases in the State of New Mexico.

**20.** The Subrecipient agrees to submit quarterly performance reports on the performance metrics identified by OVC and NMCVRC, and in the manner required by OVC and NMCVRC. Quarterly statistical and performance reports are to be received by NMCVRC no later than 15 days after the end of the quarter unless otherwise specified. Late or inaccurate reporting will delay the payment process. All demographic information that is required in program and annual reporting must be collected unless a victim declines.

**21.** The project manager and anyone completing quarterly progress and/or financial reports must attend the NMCVRC VOCA/VAWA Grant Reporting training at least once during the grant budget period, unless a waiver is granted.

**22.** Unless a waiver is granted, two members of the direct services staff within the agency shall register, pay for and attend at least one training approved by NMCVRC. Scholarship funds provided by NMCVRC do not meet this requirement.

**23.** The Subrecipient agrees to allow NMCVRC access to the grant-funded project's documentation, redacted client files and other sources in order to determine that funds are being utilized in accordance with VOCA funding guidelines/contractual agreements and other state and federal guidelines. In lieu of a file redaction, the parties may agree to NMCVRC staff signing a confidentiality agreement prior to review of files, to ensure confidentiality of clients.

**24.** The Subrecipient agrees that all equipment and/or technology purchased with grant funds will be used solely to assist victims of crime during and for the life of the equipment and/or technology following the end of the grant budget period. Equipment purchased with grant funds shall be tagged and tracked in an organized inventory. The Subrecipient agrees to notify NMCVRC of any changes regarding the use or distribution of equipment or technology purchased with VOCA funds.

**25.** VOCA award funding cannot be used to purchase food and/or beverages for any meeting, conference, training, or other event.

**26.** All materials and publications (written, visual, or sound) funded by this award shall contain the following statements: "This project was supported by subgrant # ___, awarded by the NMCVRC for the VOCA VA Grant Program. The opinions, findings, conclusions and recommendations expressed in the publication/program/ exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office for Victims of Crime or the New Mexico Crime Victims Reparation Commission."

**27.** Provide NMCVRC with an audit of the program, the audit management letter and a resolutionof all the findings if your agency meets the conditions of OMB Circular 133 or A-21, whichrequires an audit if your agency expends at least $1,000,000.00 of federal funds during thesubrecipients fiscal year. If your agency does not meet the conditions of the OMB Circular133 or A-21, please submit a financial review of the program, with a copy of the recommendation and resolution of all findings. Subrecipient understands and agrees that funds may be withheld, or other related requirements may be imposed, if outstanding auditissues are not satisfactorily and promptl y addressed as required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

**28.** If the subrecipient is designated "high risk" by a federal grant-making agency outside of DOJ, currently or at any time during the course of the period of performance under this award, the recipient must disclose that fact and certain related information to NMCVRC by email at CVRC.Grants@cvrc.nm.us. For purposes of this disclosure, high risk includes any status under which a federal awarding agency provides additional oversight due to the

recipient's past performance, or other programmatic or financial concerns with the recipient. The recipient's disclosure must include the following: 1. The federal awarding agency that currently designates the recipient high risk, 2. The date the recipient was designated high risk, 3. The high-risk point of contact at that federal awarding agency (name, phone number, and email address), and 4. The reasons for the high-risk status, as set out by the federal awarding agency. The Subrecipient agrees to comply with any additional requirements that may be imposed during the grant performance period if NMCVRC determines that the Subrecipient is a "high risk" grantee.

**29.** Prior to the final selection of personnel to be hired with grant funds, the subrecipient agrees to provide NMCVRC with the names and resumes of the candidates recommended for hiring. NMCVRC shall review and approve all recommendations regarding personnel selection and/or hiring prior to final selection of candidates. Project staff resumes, including staff being used as match must be submitted to NMCVRC in order for reimbursement for expenditures to occur. Once work has started, the Subrecipient will make no changes of personnel without the prior written consent of NMCVRC. Replacement of any subrecipient personnel, if approved, shall be with personnel of equal ability, experience and qualifications. Approval of replacement personnel shall not be unreasonably withheld. NMCVRC shall retain the right to request the removal of any of the Subrecipient's personnel at any time.

**30.** The Subrecipient agrees to utilize volunteers within the organization to support the agency's services and mission.

**31.** Project staff and consultants must be provided with a copy of the project proposal including the Primary Project Components and appropriate budget information. In addition, the program manager agrees to disseminate project information to the project staff, including any external parties responsible for financial management of agency expenses.

**32.** The Subrecipient agrees to complete and keep on file, as appropriate, Department of Homeland Security Employment Eligibility Verification Form (I-9). This form is to be used to verify that persons are eligible to work in the United States.

**33.** All information furnished to the VOCA VA Subrecipient agencies by victims of crime, including identifying information, is confidential, with the following exceptions: a) court subpoena, b) in situations where a trained professional assesses that a victim is in danger of harming themselves or others (i.e. suicide or homicide), c) periodic review of files by the funding agency, and d) in the event the victim provides written consent for a release of information. Any person suspecting abuse who knows or has reasonable suspicion that a child is being abused or neglected in New Mexico are mandated to report the matter immediately to the NM Children, Youth and Families Department and/or law enforcement. NM Child Abuse Laws 32A-4-1, et seq.

**34.** If compelled by court order to release personally identifying information or information collected in connection with services requested, utilized, or denied through Subrecipient's programs, the Subrecipient shall: a) make reasonable attempts to provide notice to victims affected by the disclosure, and document in writing such attempts; and b) take steps necessary to protect the privacy and safety of persons affected, and document in writing such necessary steps.

The Subrecipient agrees to comply with state laws and rules applicable to workers' compensation benefits for its employees. If the Subrecipient fails to comply with the Workers' Compensation Act and applicable rules when required to do so, this agreement may be terminated by NMCVRC.

**35.** Federal laws prohibit recipients of financial assistance from discriminating on the basis of actual or perceived race, color, national origin, religion, sex, or disability in funded programs or activities, not only with respect to employment practices but also in the delivery of services or benefits. Federal law also prohibits funded programs or activities from discriminating on the basis of age in the delivery of services or benefits. The subrecipient agrees to collect and keep on file nondiscrimination/demographic information on race, sex, primary language, national origin, age and disability of recipients for which services are provided, where such information is voluntarily furnished by those receiving assistance.

**36.** The Subrecipient agrees to comply with the NMCVRC's Civil Rights Compliance/Anti-Harassment policy and procedures found on the NMCVRC website.

**37.** The Subrecipient agrees that the Program Manager or appropriate designee shall attend the NMCVRC's Subgrantee Civil Rights Compliance training or webinar and agrees to disseminate this information to VOCA VA funded staff and volunteers. The Subrecipient must also comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of the Subrecipient, or individuals defined (for purposes of this condition) as "employees" of the Subrecipient.

**38.** Subrecipients must permanently post grievance policies and procedures in a conspicuous place within the agency including the agency website; this posting must include the names and contact information for NMCVRC as an agency funder.

**39.** The subrecipient agrees to inform NMCVRC of all grievances, critical incidents, or major issues within the agency to NMCVRC.

**40.** The Subrecipient understands that they must promptly refer to NMCVRC any credible evidence that a principal, employee, agent, subrecipient, subgrantee, subsubreciepeint, or other person has either: 1) submitted a false claim for grant funds under the False Claims Act; or 2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity or similar misconduct involving grant funds.

**41.** Potential or perceived fraud, waste, abuse, or misconduct, including EEOC complaints, shall be reported to NMCVRC. No subrecipient under this award or entity that receives a procurement contract or subcontract with any fund under this award, may require any employee or subrecipient to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

**42.** Requirements of the Award: Remedies for Non-Compliance or for Materially-False Statements: The conditions of this award are material requirements of the award. Compliance with any certifications or assurances submitted by or on behalf of the recipient that relate to conduct during the period of performance also is a material requirement of this award.

Limited Exceptions: In certain special circumstances, the U.S. Department of Justice ("DOJ") may determine that it will not enforce, or enforce only in part, one or more requirements otherwise applicable to the award. Any such exceptions regarding enforcement, including any such exceptions made during the period of performance, are (or will be during the period of performance) set out through the Office of Just Programs ("OJP") webpage entitled "Legal Notices: Special circumstances as to particular award conditions" (ojp.gov/funding/Explore/LegalNotices-AwardReqts.htm), and incorporated by reference into the award.

By signing and accepting this award on behalf of the recipient, the authorized recipient official accepts all material requirements of the award, and specifically adopts, as if personally executed by the authorized recipient official, all assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance.

Failure to comply with any one or more of these award requirements -- whether a condition set out in full below, a condition incorporated by reference below, or a certification or assurance related to conduct during the award period -- may result in OJP/NMCVRC taking appropriate action with respect to the subrecipient and the award. Among other things, the OJP/NMCVRC may withhold award funds, disallow costs, or suspend or terminate the award. DOJ, including OJP and/or NMCVRC, also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or 34 U.S.C. 10271-10273), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812).

Should any provision of a requirement of this award be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or -unenforceable, such provision shall be deemed severable from this award.

**43.** The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this FY 2022 award from OJP.

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this FY 2022 award supplements funds previously awarded by OJP under the same award number (e.g., funds awarded during or before December 2014), the Part 200 Uniform Requirements apply with respect to all funds under that award number (regardless of the award date, and regardless of whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this FY 2022 award.

For more information and resources on the Part 200 Uniform Requirements as they relate to OJP awards and subawards ("subgrants"), see the OJP website at https://ojp.gov/funding/Part200UniformRequirements.htm.

Record retention and access: Records pertinent to the award that the recipient (and any subrecipient ("subgrantee") at any tier) must retain -- typically for a period of 3 years from the date of submission of the final expenditure report (SF 425), unless a different retention period applies -- and to which the recipient (and any subrecipient ("subgrantee") at any tier) must provide access, include performance measurement information, in addition to the financial records, supporting documents, statistical records, and other pertinent records indicated at 2 C.F.R. 200.334.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact OJP promptly for clarification.

**44.** Compliance with DOJ Grants Financial Guide: References to the DOJ Grant Financial Guide are to the DOJ Grants Financial Guide as posted on the OJP website (currently the "DOJ Grants Financial Guide" available at https://ojp.gov/financialguide/DOJ/index.htm), including any updated version that may be posted during the period of performance. The recipient agrees to comply with the DOJ Grants Financial Guide.

**45.** Requirements related to "De minimis" indirect cost rates: A recipient that is eligible under the Part 200 Uniform Requirements and other applicable law to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must advise CVRC and OJP in writing of both its eligibility and its election, and must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC) as defined by the Part 200 Uniform Requirements.

**46.** Requirement to report potentially duplicative funding: If the recipient currently has other active awards of federal funds, or if the recipient receives any other award of federal funds during the period of performance for this award, the recipient promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the recipient must promptly notify the DOJ awarding agency (OJP or OVW, as appropriate) in writing of the potential duplication, and, if so requested by the DOJ awarding agency, must seek a budget-modification or change-of-project-scope Grant Award Modification (GAM) to eliminate any inappropriate duplication of funding.

**47.** Requirements related to System for Award Management and Universal Identifier Requirements: The recipient must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at https://www.sam.gov/. This includes applicable requirements regarding registration with SAM, as well as maintaining the currency of information in SAM.

The recipient also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the recipient) the unique entity identifier requires for SAM registration.

The details of the recipient's obligations related to SAM and to the unique entity identifiers are posted on the OJP web site at http://ojp.gov/funding/Explore/SAM.htm (Award condition: System for Award Management (SAM and Universal Identifier Requirements), and are incorporated by reference here.

This condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

**48.** Specific post-award approval required to use a noncompetitive approach in any procurement contract that would exceed $250,000. The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements to obtain specific advance approval to use a noncompetitive approach in any procurement contract that would exceed the Simplified Acquisition Threshold (currently, $250,000). This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a procurement "contract" (and therefore does not consider a subaward).

The details of the requirement for advance approval to use a noncompetitive approach in a procurement contract under an OJP award are posted on the OJP web site at https://ojp.gov/funding/Explore/NoncompetitiveProcurement.htm (Award condition: Specific post-award approval required to use a noncompetitive approach in a procurement contract (if contract would exceed $250,000)), and are incorporated by reference here.

**49.** Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate award): The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, subrecipients ("subgrantees"), or individuals defined (for purposes of this condition) as "employees" of the recipient or of any subrecipient.

The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at https://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm (Award condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and OJP authority to terminate award)) and are incorporated by reference here.

**50.** Compliance with applicable rules regarding approval, planning, and reporting of Conferences, Meetings, Trainings, and Other Events: The recipient, any subrecipient ("subgrantee") at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences. Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Post award Requirements" in the "DOJ Grants Financial Guide").

**51.** OJP Training Guiding Principles: Any training or training materials that the recipient – or any subrecipient ("subgrantee") at any tier – develops or delivers with OJP award funds must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at https://ojp.gov/funding/Implement/TrainingPrinciplesForGrantees-Subgrantees.htm.

**52.** Compliance with DOJ regulations pertaining to Civil Rights and Nondiscrimination – 28 C.F.R. Part 42: The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

**53.** Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38: The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38, (as may be applicable from time to time), specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries.

Currently, among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38 currently, also sets out rules and requirements that pertain to recipient and subrecipient ("subgrantee") organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to recipients and subrecipients that are faith-based or religious organizations.The text of 28 C.F.R. Part 38 is available via the Electronic Code of Federal Regulations (currently accessible at https://www.ecfr.gov/cgi-bin/ECFR?page=browse), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.

**54.** Compliance with General Appropriations-Law Restrictions on the use of Federal Funds (FY2022): The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions, including from various "general provisions" in the Consolidated Appropriations Act, 2018, are set out at https://ojp.gov/funding/Explore/FY21AppropriationsRestrictions.htm, and are incorporated by reference here.

Should a question arise as to whether a particular use of federal funds by a recipient (or a subrecipient) would or might fall within the scope of an appropriations-law restriction, the recipient is to contact NMCVRC who will contact OJP for guidance, and may not proceed without the express prior written approval of NMCVRC.

**55.** Reporting potential fraud, waste, and abuse, and similar misconduct: The recipient and any subrecipients ("subgrantees") must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award – (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by—(1) online submission accessible via the OIG webpage at https://oig.justice.gov/hotline/contact-grants.htm (select "Submit Report Online"; (2) mail directed to: U.S. Department of Justice, Office of the Inspector General, Investigations Division, ATTN: Grantee Reporting, 950 Pennsylvania Ave., NW, Washington, DC 20530; and/or (3) by facsimile directed to the DOJ OIG Investigations Division (Attn: Grantee Reporting) at (202) 616-9881 (fax). Additional information is available from the DOJ OIG website at https://oig.justice.gov/hotline.

**56.** Restrictions and certifications regarding non-disclosure agreements and related matters: No recipient or subrecipient ("subgrantee") under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient—
   a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above;
   b. and certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption

of) such obligations only if expressly authorized to do so by that agency.

2. If the recipient does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both—
   a. it represents that—
      i. it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and
      ii. it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and
   b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

**57.** Discrimination Findings: The recipient assures that in the event that a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the ground of race, religion, national origin, sex, or disability against a recipient of victim assistance formula funds under this award, the recipient will forward a copy of the findings to the Office for Civil Rights of OJP.

**58.** NEPA: recipient understands that all OJP awards are subject to the National Environmental Policy Act (NEPA, 42 U.S.C. section 4321 et seq.) and other related Federal laws (including the National Historic Preservation Act), if applicable. The recipient agrees to assist the Office of Justice Programs (OJP) in complying with NEPA and other related federal environmental impact analyses requirements in the use of grant funds, whether the funds are used directly by the recipient or by a subrecipients or third party. Accordingly, prior to obligating funds for any of the activities specified below, the grantee must first ensure compliance with OJP NEPA procedures. The specified activities requiring environmental analysis are: (1) New construction; (2) Any renovation or remodeling of a property located in an environmentally or historically sensitive area, including property (a) listed on or eligible for listing on the National Register of Historic Places, or (b) located within a 100-year flood plain, a wetland, or habitat for an endangered species; (3) A renovation that will change the basic prior use of a facility or significantly change its size; (4) Research and technology whose anticipated and future application could be expected to have an effect on the environment; (5) Implementation of a program involving the use of chemicals (including the identification, seizure, or closure of clandestine methamphetamine laboratories)

Complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by OJP. Further, for programs relating to methamphetamine laboratory operations, the preparation of a detailed Mitigation Plan will be required. Please be sure to carefully review the grant conditions on your award document, as it may contain more specific information about environmental compliance.

For more information about NEPA requirements, including which projects may qualify for categorical exclusions, and the preparation of an environmental review documents, please see https://ceq.doe.gov/docs/get-involved/citizens-guide-to-nepa-2021.pdf

**59.** Restrictions on Lobbying: In general, as a matter of federal law, federal funds awarded by OJP may not be used by the

recipient, or any subrecipient ("subgrantee") at any tier, either directly or indirectly, to support or oppose the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government. See 18 U.S.C. 1913. (There may be exceptions if an applicable federal statute specifically authorizes certain activities that otherwise would be barred by law.)

Another federal law generally prohibits federal funds awarded by OJP from being used by the recipient, or any subrecipient at any tier, to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract, or loan, or with respect to actions such as renewing, extending, or modifying any such award. See 31 U.S.C. 1352. Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations.

Should any question arise as to whether a particular use of federal funds by a recipient (or subrecipient) would or might fall within the scope of these prohibitions, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

**60.** Encouragement of policies to ban Text Messaging While Driving: Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages recipients and subrecipients ("subgrantees") to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

**61.** VOCA Requirements: The recipient assures that the State and its subrecipients will comply with the conditions of the Victims of Crime Act (VOCA) of 1984, sections 1404(a)(2), and 1404(b)(1) and (2), 34 U.S.C. 20103(a)(2) and (b)(1) and (2) (and the applicable program guidelines and regulations), as required. Specifically, the State certifies that funds under this award will: a) be awarded only to eligible victim assistance organizations, 34 U.S.C. 20103(a)(2); b) not be used to supplant State and local public funds that would otherwise be available for crime victim assistance, 34 U.S.C. 20103(a)(2), or for administering the state victim assistance program, 34 U.S.C. 20110(h); and c) be allocated in accordance with program guidelines or regulations implementing 34 U.S.C. 20103(a)(2)(A) and 34 U.S.C. 20103(a)(2)(B) to, at a minimum, assist victims in the following categories: sexual assault, child abuse, domestic violence, and underserved victims of violent crimes as identified by the State.

**62.** Requirements for data on performance and effectiveness under the award: The recipient must collect and maintain data that measure the performance and effectiveness of work under this award. The data must be provided to OJP in the manner (including within the timeframes) specified by OJP in the program solicitation or other applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, and other applicable laws.

**63.** Subawards Must Have Specific Federal Authorization: The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements for authorization of any subaward. This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a "subaward" (and therefore does not consider a procurement "contract").

The details of the requirement for authorization of any subaward are posted on the OJP web site at https://ojp.gov/funding/Explore/SubawardAuthorization.htm (Award condition: All subawards ("subgrants") must have specific federal authorization), and are incorporated by reference here.

**64.** Compliance with DOJ regulations pertaining to Civil Rights and Nondiscrimination – 28 C.F.R. Part 54: The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 54, which relates to nondiscrimination on the basis of sex in certain "education programs."

**65.** Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal, notice to employees): The recipient (and any subrecipient at any tier) must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all

applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

The recipient also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the recipient is to contact the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.

**66.** Recipient integrity and performance matters: Requirement to report information on certain civil, criminal, and administrative proceedings to SAM and FAPIIS: The recipient must comply with any and all applicable requirements regarding reporting of information on civil, criminal, and administrative proceedings connected with (or connected to the performance of) either this OJP award or any other grant, cooperative agreement, or procurement contract from the federal government. Under certain circumstances, recipients of OJP awards are required to report information about such proceedings, through the federal System for Award Management (known as "SAM"), to the designated federal integrity and performance system (currently, "FAPIIS").

The details of recipient obligations regarding the required reporting (and updating) of information on certain civil, criminal, and administrative proceedings to the federal designated integrity and performance system (currently, "FAPIIS") within SAM are posted on the OJP web site at http://ojp.gov/funding/FAPIIS.htm (Award condition: Recipient Integrity and Performance Matters, including Recipient Reporting to FAPIIS), and are incorporated by reference here.

**67.** Reclassification of various statutory provisions to a new Title 34 of the United States Code: On September 1, 2017, various statutory provisions previously codified elsewhere in the U.S. Code were editorially reclassified (that is,, moved and renumbered) to a new Title 34, entitled "Crime Control and Law Enforcement." The reclassification encompassed a number of statutory provisions pertinent to OJP awards (that is, OJP grants and cooperative agreements), including many provisions previously codified in Title 42 of the U.S. Code.

Effective as of September 1, 2017, any reference in this award document to a statutory provision that has been reclassified to the new Title 34 of the U.S. Code is to be read as a reference to that statutory provision as reclassified to

Title 34. This rule of construction specifically includes references set out in award conditions, references set out in material incorporated by reference through award conditions, and references set out in other award requirements.

**68.** Requirement to report actual or imminent breach of personally identifiable information (PII): The recipient (and any "subrecipient" at any tier) must have written procedures in place to respond in the event of an actual or imminent "breach" (OMB M-17-12) if it (or a subrecipient)—1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of "personally identifiable information (PII)" (2 CFR 200.1) within the scope of an OJP grant-funded program or activity, or 2) uses or operates a "Federal information system" (OMB Circular A-130). The recipient's breach procedures must include a requirement to report actual or imminent breach of PII to an OJP Program Manager no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.

**69.** Determination of suitability to interact with participating minors
SCOPE. This condition applies to this award if it is indicated -- in the application for the award (as approved by DOJ)(or in the application for any subaward, at any tier), the DOJ funding announcement (solicitation), or an associated federal statute -- that a purpose of some or all of the activities to be carried out under the award (whether by the recipient, or a subrecipient at any tier) is to benefit a set of individuals under 18 years of age.

The recipient, and any subrecipient at any tier, must make determinations of suitability before certain individuals may interact with participating minors. This requirement applies regardless of an individual's employment status.

The details of this requirement are posted on the OJP web site at https://ojp.gov/funding/Explore/Interact-Minors.htm (Award condition: Determination of suitability required, in advance, for certain individuals who may interact with participating minors), and are incorporated by reference here.

**70.** Employment eligibility verification for hiring under the award

1 The recipient (and any subrecipient at any tier) must—

A. Ensure that, as part of the hiring process for any position within the United States that is or will be funded (in whole or in part) with award funds, the recipient (or any subrecipient) properly verifies the employment eligibility of the individual who is being hired, consistent with the provisions of 8 U.S.C. 1324a(a)(1).

B. Notify all persons associated with the recipient (or any subrecipient) who are or will be involved in activities under this award of both—

1. this award requirement for verification of employment eligibility, and
2. the associated provisions in 8 U.S.C. 1324a(a)(1) that, generally speaking, make it unlawful, in the United States, to hire (or recruit for employment) certain aliens.

C. Provide training (to the extent necessary) to those persons required by this condition to be notified of the award requirement for employment eligibility verification and of the associated provisions of 8 U.S.C. 1324a(a)(1).

D. As part of the recordkeeping for the award (including pursuant to the Part 200 Uniform Requirements), maintain records of all employment eligibility verifications pertinent to compliance with this award condition in accordance with Form I-9 record retention requirements, as well as records of all pertinent notifications and trainings.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions designed to ensure compliance with this condition.

4. Rules of construction

A. Staff involved in the hiring process

For purposes of this condition, persons "who are or will be involved in activities under this award" specifically includes (without limitation) any and all recipient (or any subrecipient) officials or other staff who are or will be involved in the hiring process with respect to a position that is or will be funded (in whole or in part) with award funds.

B. Employment eligibility confirmation with E-Verify

For purposes of satisfying the requirement of this condition regarding verification of employment eligibility, the recipient (or any subrecipient) may choose to participate in, and use, E-Verify (www.e-verify.gov), provided an appropriate person authorized to act on behalf of the recipient (or subrecipient) uses E-Verify (and follows the proper E-Verify procedures, including in the event of a "Tentative Nonconfirmation" or a "Final Nonconfirmation") to confirm employment eligibility for each hiring for a position in the United States that is or will be funded (in whole or in part) with award funds.

C. "United States" specifically includes the District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.

D. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, or any person or other entity, to violate any federal law, including any applicable civil rights or nondiscrimination law.

E. Nothing in this condition, including in paragraph 4.B., shall be understood to relieve any recipient, any subrecipient at any tier, or any person or other entity, of any obligation otherwise imposed by law, including 8 U.S.C. 1324a(a)(1).

Questions about E-Verify should be directed to DHS. For more information about E-Verify visit the E-Verify website (https://www.e-verify.gov/) or email E-Verify at E-Verify@dhs.gov. E-Verify employer agents can email E-Verify at E-VerifyEmployerAgent@dhs.gov.

Questions about the meaning or scope of this condition should be directed to NMCVRC who will seek guidance from OJP, before award acceptance.

**71.** Safe policing and law enforcement subrecipients: If this award is a discretionary award, the recipient agrees that it will not make any subawards to State, local, college, or university law enforcement agencies unless such agencies have been certified by an approved independent credentialing body or have started the certification process. To become certified, law enforcement agencies must meet two mandatory conditions: (1) the agency's use of force policies adhere to all applicable federal, state, and local laws; and (2) the agency's use of force policies prohibit chokeholds except in situations where use of deadly force is allowed by law. For detailed information on this certification requirement, see https://cops.usdoj.gov/SafePolicingEO.

**72.** Effective immediately upon receipt of this award, any obligations of funds, at any tier, under this award to provide (or to support the provision of) legal services to any removable alien or any alien otherwise unlawfully present in the United States shall be unallowable costs for purposes of this award, but the foregoing shall not be understood to apply—(1) to legal services to obtain protection orders for victims of crime; or (2) to immigration-related legal services that may be expressly authorized or required by any law, or any judicial ruling, governing or applicable to the award.

**73.** Termination or suspension. The Director of NMCVRC upon a finding that there (1) has been substantial failure by the subrecipient to comply with applicable laws, regulations, and/or the terms and conditions of the award or relevant solicitation, (2) has been failure by the subrecipient to make satisfactory progress toward the goals, objectives, or strategies set forth in the application, or (3) have been project changes proposed or implemented by the subrecipient to the extent that, if originally submitted, the application would not have been selected for funding, will terminate or suspend until the Director is satisfied that there is no longer such failure or changes, all or part of the award, in accordance with the provisions of 28 C.F.R. Part 18, as applicable mutatis mutandis. The federal regulation providing uniform rules for termination of grants and cooperative agreements is 2 C.F.R. 200.340.

**74.** Performance Measures – PMT: the recipient agrees to submit (and, as necessary, require sub-recipients to submit) quarterly performance reports and the performance metrics identified by OVC, and in the manner required by OVC. This information on the activities supported by the award funding will assist in assessing the effects that VOCA Victim Assistance funds have had on services to crime victims within the jurisdiction.

**Additional monitoring requirements. For FFY2026 your additional financial compliance measures are:**

- Submit invoices monthly.
- Submit time and activity sheets for all federal and match employees.
- Your agency must maintain all source documents on file and be able to present them for desk or site audit.

**Organizations, which do not adhere to these Special Conditions, will be in violation of the terms of this Grant, and the VOCA VA Award will be subject to appropriate administrative action, including withholding of funds or possible termination of the Grant Award.**

**26-066**

**Type of Action:**
**☒ Resolution**
**☐ Ordinance**
**☐ TIDD Resolution**

# City Council Action and Executive Summary

| | | | |
|---|---|---|---|
| **District:** | **☒ 1 ☒ 2 ☒ 3 ☒ 4 ☒ 5 ☒ 6 ☐ N/A** | | |
| **1st Reading:** | | **Adopted:** | November 17, 2025 |
| **Drafter:** | Hayford Danso | **Department:** | City Manager's Office |
| **Title:** | **A RESOLUTION AMENDING THE FY2026 - 2031 CAPITAL IMPROVEMENTS PROGRAM.** | | |

**TYPE OF ACTION:** **☒ Administrative** **☐ Legislative** **☐ Quasi-Judicial**

## PURPOSE(S) OF ACTION:
To amend the Capital Improvements Program (CIP) for Fiscal Year (FY) 2026 through 2031.

## BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
The City of Las Cruces adopted the FY 2026-2031 Capital Improvements Program (CIP) on May 19, 2025. During the fiscal year, project information, such as funding sources and amounts, may change as projects progress. As a result, amendments to the CIP document are necessary to reflect those changes. City Council approves amendments.

The proposed amendments adjust project budgets and reflect grants accepted by the City Council. Attachment "A" lists the proposed amendments.

## SUPPORT INFORMATION:
Exhibit "A" - FY2026 -2031 CIP
Attachment "A" - CIP Amendments Description

## PLAN(S):
Elevate Las Cruces

## COMMITTEE/BOARD REVIEW:
None

## DOES THIS AMEND THE BUDGET?:
☐ Yes
☒ No

## Does this action amend the Capital Improvement Plan (CIP)?
☒ Yes
☐ No

**OPTIONS / ALTERNATIVES:**

1. Vote "Yes"; this will amend the City of Las Cruces FY2026 through FY2031 CIP.
2. Vote "No"; this will not amend the City of Las Cruces FY2026 through FY2031 CIP.
3. Vote to "Amend"; this will potentially amend the Cruces FY2026 through FY2031 CIP, requiring pages in the program document be added, deleted or modified.
4. Vote to "Table"; this will delay the use of funds for amended projects.

# RESOLUTION 26-066

## A RESOLUTION AMENDING THE FY2026 - 2031 CAPITAL IMPROVEMENTS PROGRAM.

The City Council is informed that:

**WHEREAS**, the Capital Improvements Program (CIP) is a six-year program that identifies capital projects which address capital needs to build, replace, expand, and improve infrastructure and systems; and

**WHEREAS**, in accordance with the provisions of Article VI. Section 6.03 of the City Charter, the financing and location of capital improvements is guided by the City's Comprehensive Plan, Elevate Las Cruces; and

**WHEREAS,** pursuant to Article V. Section 5.08 of the City Charter, Council may supplement, reduce or transfer appropriations.

**NOW, THEREFORE,** Be it Resolved by the Governing Body of the City of Las Cruces:

**(I)**

**THAT** the Capital Improvements Program for FY2026 through FY2031, attached hereto and made part of this Resolution as Exhibit "A", is hereby approved.

**(II)**

**THAT** City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

**DONE AND APPROVED this** day of

APPROVED

_____

ATTEST:

_____

**Moved by:**

**Seconded by:**

**AYES**

**NAYS**

# CITY OF LAS CRUCES
# CAPITAL IMPROVEMENTS PROGRAM
# FY 2026 - 2031

Exhibit "A"

**AMENDEDED - NOVEMBER 17, 2025**

| Project Title | Department | Funded FY2026 | Unfunded FY2027 | FY2028 | FY2029 | FY2030 | FY2031 | Funding Source |
|---|---|---|---|---|---|---|---|---|
| **Active Transportation** | | $ | $ | $ | $ | $ | $ | |
| **Active Transportation - Newly Funded** | | $ - | $ - | $ - | $ - | $ | $ - | |
| **Active Transportation - Carryover** | | $ 8,471,123.22 | $ 3,220,000.00 | $ 500,000.00 | $ 500,000.00 | $ | $ - | |
| Active Transportation Program | | $ 3,656,310.59 | $ 665,000.00 | $ - | $ - | $ | $ - | |
| Active Transportation Projects | | $ 350,000.00 | $ - | $ - | $ - | $ | $ - | **Grants** |
| *Pending 2025 Legislative Appropriation* | | $ - | *$ 400,000.00* | $ - | $ - | $ | $ - | |
| *Pending Design Approval - Ethel Ave.* | | $ - | *$ 265,000.00* | $ - | $ - | $ | $ - | |
| Madrid Ave Extension - Evelyn St to N Triviz Dr | Public Works | $ 1,211,457.59 | $ - | $ - | $ - | $ | $ - | **Bonds** |
| Melendres Ave/Pittsburg - Hadley to Picacho | Public Works | $ 1,094,853.00 | $ - | $ - | $ - | $ | $ - | **Bonds** |
| South Main St - Avenida de Mesilla to Boutz | Public Works | $ 1,000,000.00 | $ - | $ - | $ - | $ | $ - | **Bonds** |
| Trail Renovations | Parks & Recreation | $ 95,000.00 | $ 1,540,000.00 | $ 500,000.00 | $ 500,000.00 | $ | $ - | **Grants** |
| Dona Ana Move Trail | Parks & Recreation | $ 409,469.23 | $ - | $ - | $ - | $ | $ - | **Grants** |
| Tortugas Trail | Parks & Recreation | $ 65,543.64 | $ 350,000.00 | $ - | $ - | $ | $ - | Grants, Other |
| University Multi-Use Trail Loop | Parks & Recreation | $ 588,489.17 | $ - | $ - | $ - | $ | $ - | Grants, Taxes |
| **Active Transportation - Annual** | | $ 150,000.00 | $ 110,000.00 | $ 110,000.00 | $ 110,000.00 | $ 110,000.00 | $ - | |
| ADA Compliance | | $ 621,740.38 | $ 110,000.00 | $ 110,000.00 | $ 110,000.00 | $ 110,000.00 | $ - | |
| ADA Sidewalk Program | Public Works | $ 621,740.38 | $ 110,000.00 | $ 110,000.00 | $ 110,000.00 | $ 110,000.00 | $ - | **Taxes** |
| **Active Transportation - Future** | | $ - | $ 174,000.00 | $ - | $ - | $ | $ - | |
| Green Cool Corridors for Bicycles | Sustainability | $ - | $ 174,000.00 | $ - | $ - | $ | $ - | Grants, Taxes |
| | **SUBTOTAL** | $ 5,756,400.34 | $ 3,504,000.00 | $ 610,000.00 | $ 610,000.00 | $ 110,000.00 | $ - | |

| Project Title | Department | Funded FY2026 | Unfunded FY2027 | FY2028 | FY2029 | FY2030 | FY2031 | Funding Source |
|---|---|---|---|---|---|---|---|---|
| **Airport** | | $ | $ | $ | $ | $ | $ | |
| **Airport - Newly Funded** | | $ 454,982.00 | $ 475,000.00 | $ - | $ - | $ - | $ - | |
| LRU Airport Automated Weather Observation System (AWOS) | Las Cruces Airport | $ 1,319,671.00 | $ 475,000.00 | $ - | $ - | $ | $ - | **Grants** |
| **Airport - Carryover** | | $ 6,288,658.51 | $ 8,350,000.00 | $ - | $ - | $ - | $ - | |
| LRU Runway Improvements | | $ 2,903,545.03 | $ 1,500,000.00 | $ - | $ - | $ | $ - | |
| LRU Runway 4-22 Rehabilitation | Las Cruces Airport | $ 2,333,919.66 | $ 1,500,000.00 | $ - | $ - | $ | $ - | **Grants** |
| LRU Runways 8-26 and 12-30 Blast Pads | Las Cruces Airport | $ 569,625.37 | $ - | $ - | $ - | $ | $ - | **Grants, Taxes** |
| LRU Infrastructure Extensions/Improvements | Las Cruces Airport | $ 481,568.45 | $ 5,350,000.00 | $ - | $ - | $ | $ - | **Grants, Taxes** |
| **Airport - Annual** | | $ 175,000.00 | $ 485,000.00 | $ 285,000.00 | $ 285,000.00 | $ 285,000.00 | $ - | |
| LRU Pavement Maintenance Program | Las Cruces Airport | $ - | $ 400,000.00 | $ 200,000.00 | $ 200,000.00 | $ 200,000.00 | $ - | Other, Taxes |
| LRU Pavement Striping/Marking Maintenance Program | Las Cruces Airport | $ 175,000.00 | $ 85,000.00 | $ 85,000.00 | $ 85,000.00 | $ 85,000.00 | $ - | **Grants, Taxes** |
| **Airport - Future** | | $ - | $ 18,539,000.00 | $ 7,050,000.00 | $ 5,150,000.00 | $ 66,270,000.00 | $ 17,500,000.00 | |
| LRU Runway Improvements | | $ - | $ - | $ - | $ - | $ 27,500,000.00 | $ 17,500,000.00 | |
| LRU Runway 12/30 Extension | Las Cruces Airport | $ - | $ - | $ - | $ - | $ | $ 17,500,000.00 | Grants, Other, Taxes |
| Runway 8/26 Extension | Las Cruces Airport | $ - | $ - | $ - | $ - | $ 27,500,000.00 | $ - | Grants, Taxes |
| LRU Airline Ground Support Equipment Facility Design and Construction | Las Cruces Airport | $ - | $ - | $ - | $ 750,000.00 | $ | $ - | Other |
| LRU Airport Automated Weather Observation System (AWOS) | Las Cruces Airport | $ - | $ 475,000.00 | $ - | $ - | $ | $ - | Grants, Taxes |
| LRU Airport Maintenance Equipment | Las Cruces Airport | $ - | $ - | $ 750,000.00 | $ - | $ | $ - | Grants, Taxes |
| LRU Airport Rotating Beacon | Las Cruces Airport | $ - | $ 345,000.00 | $ - | $ - | $ | $ - | Grants, Taxes |
| LRU Apron West Rehabilitation | Las Cruces Airport | $ - | $ - | $ - | $ - | $ 70,000.00 | $ - | Grants, Taxes |
| LRU ARFF (Airport Rescue and Fire Fighting) Index B Equipment Upgrades | Las Cruces Airport | $ - | $ 1,600,000.00 | $ - | $ - | $ | $ - | Grants, Taxes |
| LRU Commercial Hangar Design and Construction | Las Cruces Airport | $ - | $ - | $ 2,850,000.00 | $ - | $ | $ - | Grants, Taxes |
| LRU East Road Extensions/Improvements | Las Cruces Airport | $ - | $ - | $ - | $ - | $ 11,200,000.00 | $ - | Other |
| LRU Fuel Farm Relocation and Expansion | Las Cruces Airport | $ - | $ - | $ - | $ 1,900,000.00 | $ | $ - | Other |
| LRU Maintenance Facility Design and Construction | Las Cruces Airport | $ - | $ 550,000.00 | $ - | $ - | $ | $ - | Grants |
| LRU Multi-Modal Public Passenger Transit Facility | Las Cruces Airport | $ - | $ - | $ - | $ 2,500,000.00 | $ | $ - | Other |
| LRU Passenger Terminal Design and Construction | Las Cruces Airport | $ - | $ 9,600,000.00 | $ - | $ - | $ | $ - | Grants, Taxes |
| LRU Passenger Terminal Parking Design and Construction | Las Cruces Airport | $ - | $ 1,600,000.00 | $ - | $ - | $ | $ - | Grants, Taxes |
| LRU Taxi Lane Extensions/Improvements | Las Cruces Airport | $ - | $ - | $ 3,450,000.00 | $ - | $ | $ - | Other |
| Taxiway C Rehabilitation | Las Cruces Airport | $ - | $ 4,369,000.00 | $ - | $ - | $ | $ - | Grants, Other, Taxes |
| | **SUBTOTAL** | $4,015,095.48 | $ 27,849,000.00 | $ 7,335,000.00 | $ 5,435,000.00 | $ 66,555,000.00 | $ 17,500,000.00 | |

# CITY OF LAS CRUCES
# CAPITAL IMPROVEMENTS PROGRAM
# FY 2026 - 2031

| Attainable/Affordable Housing | | $ | $ | $ | $ | $ | $ | |
|---|---|---|---|---|---|---|---|---|
| **Attainable/Affordable Housing - Newly Funded** | | **$ 8,222,334.00** | $ - | $ - | $ - | $ | - | |
| Arcadia 4 Subdivision | Housing and Neighborhood Svcs | $ 3,250,000.00 | | | | | | **Grants, Other** |
| Affordable Housing Trust Fund and Land Bank Projects | Housing and Neighborhood Svcs | $ 4,972,334.00 | | | | | | **Grants, Other** |
| **Attainable/Affordable Housing - Carryover** | | **$ 15,695,106.83** | **$ 3,537,401.00** | $ - | $ - | $ - | $ - | |
| MVCoH Campus Extension (Amador Crossing) | Housing and Neighborhood Svcs | $ 15,695,106.83 | $ 2,737,401.00 | $ - | $ - | $ | - | **Grants, Telshor** |
| *Pending 2025 Legislative Appropriation* | | $ - | *$ 800,000.00* | $ - | $ - | $ | - | |
| **Attainable/Affordable Housing - Annual** | | $ - | $ - | $ - | $ - | $ | - | |
| **Attainable/Affordable Housing - Future** | | $ - | **$ 19,600,000.00** | **$ 9,050,000.00** | **$ 14,050,000.00** | **$ 9,050,000.00** | **$ 5,050,000.00** | |
| Affordable Housing Trust Fund and Land Bank Projects | Housing and Neighborhood Svcs | $ - | $ 5,500,000.00 | $ 5,050,000.00 | $ 10,050,000.00 | $ 5,050,000.00 | $ 5,050,000.00 | Bonds, Grants, Other |
| Lift Up Las Cruces - Street Improvements | | $ - | $ 7,050,000.00 | $ 2,000,000.00 | $ 2,000,000.00 | $ 2,000,000.00 | $ - | |
| Paseos Verdes | Housing and Neighborhood Svcs | $ - | $ 6,000,000.00 | $ 2,000,000.00 | $ 2,000,000.00 | $ 2,000,000.00 | $ - | Bonds, Grants, Taxes |
| *Pending 2025 Legislative Appropriation* | *Housing and Neighborhood Svcs* | $ - | *$ 1,050,000.00* | $ - | $ - | $ - | $ - | *Bonds, Grants, Taxes* |
| | **SUBTOTAL** | **$ 23,917,440.83** | **$ 23,137,401.00** | **$ 9,050,000.00** | **$ 14,050,000.00** | **$ 9,050,000.00** | **$ 5,050,000.00** | |

| City Operational Facilities | | $ | $ | $ | $ | $ | $ | |
|---|---|---|---|---|---|---|---|---|
| **City Operational Facilities - Newly Funded** | | **$ -** | $ - | $ - | $ - | $ - | $ - | |
| **City Operational Facilities - Carryover** | | **$ 603,035.09** | $ - | $ - | $ - | $ - | $ - | |
| Safety, Health, Environmental & Emergency | | $ 263,214.00 | $ - | $ - | $ - | $ | - | |
| City Hall Security Upgrades | Facilities Management | $ 76,607.09 | $ - | $ - | $ - | $ | - | Taxes |
| HR Remodel | Facilities Management | $ 110,000.00 | $ - | $ - | $ - | $ | - | **Taxes** |
| Surveillance and Access Controls (Key Cards) | Facilities Management | $ 153,214.00 | $ - | $ - | $ - | $ | - | **Taxes** |
| General Facilities Improvements | | **$ -** | $ - | $ - | $ - | $ | - | |
| Energy Efficiency Program - IGA | Facilities Management | $ - | $ - | $ - | $ - | $ | - | Taxes |
| **City Operational Facilities - Annual** | | **$ -** | **$ 1,016,500.00** | **$ 255,500.00** | **$ 255,500.00** | **$ 255,500.00** | **$ -** | |
| Safety, Health, Environmental & Emergency | | **$ -** | $ 1,016,500.00 | $ 255,500.00 | $ 255,500.00 | $ 255,500.00 | $ - | |
| Safety, Health, Environmental, & Emergency | Facilities Management | $ - | $ 1,016,500.00 | $ 255,500.00 | $ 255,500.00 | $ 255,500.00 | $ - | Taxes |
| **City Operational Facilities - Future** | | **$ -** | **$ 18,493,000.00** | **$ 600,000.00** | **$ 420,000.00** | **$ 400,000.00** | **$ -** | |
| General Facilities Improvements | | **$ -** | $ 7,922,500.00 | $ - | $ - | $ | - | |
| City Hall Expansion | Facilities Management | $ - | $ 7,500,000.00 | $ - | $ - | $ | - | Other |
| East Mesa Center Emergency Generator (Sage Café) | Quality of Life | $ - | $ 422,500.00 | $ - | $ - | $ | - | Grants, Taxes |
| HVAC Upgrade Program | | **$ -** | $ 400,000.00 | $ 200,000.00 | $ 200,000.00 | $ 200,000.00 | $ - | |
| HVAC Upgrade Program | Facilities Management | $ - | $ 400,000.00 | $ 200,000.00 | $ 200,000.00 | $ 200,000.00 | $ - | Taxes |
| Refuse & Recycling Buffer Program | | **$ -** | $ 24,000.00 | $ 100,000.00 | $ 10,000.00 | $ | - | |
| Refuse & Recycling Buffer Program | Facilities Management | $ - | $ 24,000.00 | $ 100,000.00 | $ 10,000.00 | $ | - | Taxes |
| East Mesa Outdoor Pool - Ground Stabilization | Parks & Recreation | $ - | $ 1,100,000.00 | $ - | $ - | $ | - | ARPA, Bonds, Grants, Taxes |
| Office Renovation - Castaneda Service Center | Parks & Recreation | $ - | $ 100,000.00 | $ - | $ - | $ | - | ARPA, Bonds, Grants, Other, Taxes |
| Satellite Park Maintenance Yard and Facility | Parks & Recreation | $ - | $ 600,000.00 | $ - | $ - | $ | - | ARPA, Bonds, Grants, Other, Taxes |
| | **SUBTOTAL** | **$ 603,035.09** | **$ 19,509,500.00** | **$ 855,500.00** | **$ 675,500.00** | **$ 655,500.00** | **$ -** | |

| Equipment & IT | | $ | $ | $ | $ | $ | $ | |
|---|---|---|---|---|---|---|---|---|
| **Equipment & IT - Newly Funded** | | **$ -** | **$181,500.00** | $ - | $ - | $ - | $ - | |
| Access Channel Capital Improvement | Communications | $ - | $181,500.00 | $ - | $ - | $ - | $ - | Other |
| **Equipment & IT - Carryover** | | **$0.00** | $ - | $ - | $ - | $ - | $ - | |
| Safety, Health, Environmental & Emergency | | $0.00 | $ - | $ - | $ - | $ - | $ - | |
| Senior Program Equipment and Rolling Stock | Quality of Life | $0.00 | $ - | $ - | $ - | $ - | $ - | Grants, Taxes |
| **Equipment & IT - Annual** | | **$ -** | $ - | $ - | $ - | $ - | $ - | |
| **Equipment & IT - Future** | | $ - | **$483,000.00** | **$92,000.00** | $ - | $ - | $ - | |
| Audio and Visual Equipment Upgrades for City Hall | Facilities Management | $ - | $383,000.00 | $92,000.00 | $ - | $ - | $ - | Taxes |
| Large Equipment - New and Replacement | Parks & Recreation | $ - | $100,000.00 | $ - | $ - | $ - | $ - | ARPA, Bonds, Grants, Other, Taxes |
| | **SUBTOTAL** | **$110,000.00** | **$664,500.00** | **$92,000.00** | **$ -** | **$ -** | **$ -** | |

# CITY OF LAS CRUCES
## CAPITAL IMPROVEMENTS PROGRAM
## FY 2026 - 2031

| Non-Profit | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| **Non-Profit - Newly Funded** | | $ - | $ - | $ - | $ - | $ - | $ - | |
| **Non-Profit - Carryover** | | $ 6,899,462.40 | $ 16,224,356.00 | $ - | $ - | $ - | $ - | |
| MVCoH Health Facility | | $ 31,315.00 | $ - | $ - | $ - | $ - | $ - | |
| MVCH Health Facility Improvements | Non-Profit | $ 31,315.00 | $ - | $ - | $ - | $ - | $ - | **Grants** |
| Arts and Cultural District Improvements | Non-Profit | $ 1,515,670.12 | $ - | $ - | $ - | $ - | $ - | **Grants** |
| Jardin de los Niños Re-Roof | Non-Profit | $ 7,745.30 | $ 150,000.00 | $ - | $ - | $ - | $ - | **Grants** |
| La Casa, Inc. Improvements (Flooring, Painting, Shade Structure) | Non-Profit | $ 301,000.00 | $ - | $ - | $ - | $ - | $ - | **Grants** |
| La Casa, Inc. Safety and Security Improvements | Non-Profit | $ 574,200.00 | $ 500,000.00 | $ - | $ - | $ - | $ - | **Grants** |
| MV Community of Hope Expansion Remodel | Non-Profit | $ 1,095,250.20 | $ 1,000,000.00 | $ - | $ - | $ - | $ - | **Grants** |
| MVCoH Restroom Showers & Mechanical Room | Facilities Management | $ 387,124.52 | $ - | $ - | $ - | $ - | $ - | **Telshor** |
| The Kitchens at MVCOH | Non-Profit | $ 2,955,842.26 | $ 14,574,356.00 | $ - | $ - | $ - | $ - | **Grants** |
| **Non-Profit - Annual** | | $ - | $ - | $ - | $ - | $ - | $ - | |
| **Non-Profit - Future** | | $ - | $ 7,320,000.00 | $ 2,000,000.00 | $ 2,000,000.00 | $ - | $ - | |
| MVCoH Health Facility | | $ - | $ 330,000.00 | $ - | $ - | $ - | $ - | |
| Health Facility Phase IV | Non-Profit | $ - | $ 330,000.00 | $ - | $ - | $ - | $ - | Grants |
| Jardin de los Niños Security Improvements | Non-Profit | $ - | $ 200,000.00 | $ - | $ - | $ - | $ - | Grants |
| MVCH Bldg 1 Solar Project | Non-Profit | $ - | $ 600,000.00 | $ - | $ - | $ - | $ - | Other |
| MVCH Patio to Office Remodel | Non-Profit | $ - | $ 1,000,000.00 | $ - | $ - | $ - | $ - | Grants |
| MVCH Solar Parking Structure | Non-Profit | $ - | $ 600,000.00 | $ - | $ - | $ - | $ - | Grants |
| MVCoH Master Plan Implementation | Housing and Neighborhood Svcs | $ - | $ 4,000,000.00 | $ 2,000,000.00 | $ 2,000,000.00 | $ - | $ - | Grants, Taxes |
| *Pending 2025 Legislative Appropriation* | | $ - | $ *590,000.00* | $ - | $ - | $ - | $ - | |
| | **SUBTOTAL** | $ 9,288,794.25 | $ 23,544,356.00 | $ 2,000,000.00 | $ 2,000,000.00 | $ - | $ - | |

| Other | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| **Other - Newly Funded** | | $ - | $ - | $ - | $ - | $ - | $ - | |
| **Other - Carryover** | | $ - | $ - | $ - | $ - | $ - | $ - | |
| **Other - Future** | | $ - | $653,000.00 | $ - | $ - | $ - | $ - | |
| Parks and Recreation Master Plan Update | Parks & Recreation | $ - | $433,000.00 | $ - | $ - | $ - | $ - | Grants, Other, Taxes |
| QOL Bookmobile | Quality of Life | $ - | $220,000.00 | $ - | $ - | $ - | $ - | Bonds, Grants, Other, Taxes, TIDD |
| | **SUBTOTAL** | $ - | $653,000.00 | $ - | $ - | $ - | $ - | |

| Park Improvements | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| **Park Improvements - Newly Funded** | | $ - | $ - | $ - | $ - | $ - | $ - | |
| **Park Improvements - Carryover** | | $ 13,762,307.71 | $ 9,250,007.19 | $ 2,650,000.00 | $ 2,775,000.00 | $ 2,900,000.00 | $ 3,025,000.00 | |
| Apodaca Park Aquatic Playground and Multi-Use Path | Parks & Recreation | $ 1,191,352.58 | $ - | $ - | $ - | $ - | $ - | **Grants, PIF, Taxes** |
| Ballfield/Multi-Use Field Renovations & Upgrades | Parks & Recreation | $ 14,716.22 | $ 3,344,000.00 | $ - | $ - | $ - | $ - | ARPA, Bonds, Grants, Taxes |
| Benavidez Community Center Park Improvements | Parks & Recreation | $ 734,599.40 | $ 619,007.19 | $ - | $ - | $ - | $ - | **Grants, PIF** |
| Gallagher Park Improvements - Design/Construction | Parks & Recreation | $ 6,482.35 | $ - | $ - | $ - | $ - | $ - | **Bonds** |
| Klein Park Improvements | Parks & Recreation | $ - | $ 57,000.00 | $ - | $ - | $ - | $ - | Grants, PIF |
| Legacy Park Renovations | Parks & Recreation | $ 1,919,131.00 | $ 5,075,000.00 | $ 2,650,000.00 | $ 2,775,000.00 | $ 2,900,000.00 | $ 3,025,000.00 | ARPA, Bonds, Grants, Other, PIF, Taxes |
| *Pending 2025 Legislative Appropriation* | | $ - | $ *100,000.00* | $ - | $ - | $ - | $ - | |
| Park Drinking Fountains | Parks & Recreation | $ 963,792.47 | $ 55,000.00 | $ - | $ - | $ - | $ - | Grants, Telshor Fund |
| Pioneer Women's Park improvements | Parks & Recreation | $ 459,833.41 | $ - | $ - | $ - | $ - | $ - | **Grants** |
| Skate Park Improvements | Parks & Recreation | $ 4,604,138.22 | $ - | $ - | $ - | $ - | $ - | **Grants, PIF** |
| Sports Field Lighting | Parks & Recreation | $ 3,400,000.00 | $ - | $ - | $ - | $ - | $ - | **Bonds** |
| Valley View Park - Heske Garden Lighting Replacement | Parks & Recreation | $ 468,262.06 | $ - | $ - | $ - | $ - | $ - | Grants, Taxes |
| **Park Improvements - Annual** | | $ 4,385,789.14 | $ 10,946,000.00 | $ 4,150,000.00 | $ 3,852,000.00 | $ 4,552,000.00 | $ 500,000.00 | |
| Neighborhood Parks | | $ 1,879,367.07 | $ 4,900,000.00 | $ 1,800,000.00 | $ 1,900,000.00 | $ 2,000,000.00 | $ - | |
| Playground Renovations | Parks & Recreation | $ 1,879,367.07 | $ 4,900,000.00 | $ 1,800,000.00 | $ 1,900,000.00 | $ 2,000,000.00 | $ - | Grants, Other, Telshor Fund |
| Parks Shade Structures | | $ 23,250.00 | $ 73,000.00 | $ 25,000.00 | $ 26,000.00 | $ 26,000.00 | $ - | |
| Shade structure replacement | Parks & Recreation | $ 23,250.00 | $ 73,000.00 | $ 25,000.00 | $ 26,000.00 | $ 26,000.00 | $ - | **Taxes** |
| Park Restroom Improvements and New Restrooms | Parks & Recreation | $ 580,555.00 | $ 1,000,000.00 | $ 500,000.00 | $ - | $ 500,000.00 | $ 500,000.00 | **PIF** |
| **Park Improvements - Future** | | $ - | $ 7,354,000.00 | $ 13,650,000.00 | $ 30,300,000.00 | $ 29,900,000.00 | $ 300,000.00 | |
| Parks and Recreational Facilities Structural Renovations | | $ - | $ 1,460,000.00 | $ 150,000.00 | $ 150,000.00 | $ 150,000.00 | $ 150,000.00 | |
| Light Poles at Hadley Fields | Facilities Management | $ - | $ 1,010,000.00 | $ - | $ - | $ - | $ - | Bonds, Grants, Taxes |
| Parks and Recreational Facilities Enhancements | Parks & Recreation | $ - | $ 450,000.00 | $ 150,000.00 | $ 150,000.00 | $ 150,000.00 | $ 150,000.00 | Taxes |
| Burn Lake Improvements | Parks & Recreation | $ - | $ 300,000.00 | $ 3,000,000.00 | $ - | $ - | $ - | ARPA, Bonds, Grants, Other, PIF, Taxes |
| Four Field Baseball/Softball Complex | Parks & Recreation | $ - | $ 400,000.00 | $ 5,950,000.00 | $ - | $ - | $ - | Other |
| Multi-Use Recreation Center | Parks & Recreation | $ - | $ 1,800,000.00 | $ 4,400,000.00 | $ 30,000,000.00 | $ 29,600,000.00 | $ - | Bonds, Grants, Other, Taxes |
| Soccer Fields Field Lighting | Parks & Recreation | $ - | $ 1,200,000.00 | $ - | $ - | $ - | $ - | Bonds, Grants, PIF, Taxes |
| Soccer Fields Field Restroom | Parks & Recreation | $ - | $ 600,000.00 | $ - | $ - | $ - | $ - | Bonds, Grants, PIF, Taxes |
| Veterans Memorial Park Restroom Plumbing Repairs and Upgrades | Parks & Recreation | $ - | $ 134,000.00 | $ - | $ - | $ - | $ - | Other |
| | **SUBTOTAL** | $ 18,148,096.85 | $ 27,550,007.19 | $ 20,450,000.00 | $ 36,927,000.00 | $ 37,352,000.00 | $ 3,825,000.00 | |

# CITY OF LAS CRUCES
# CAPITAL IMPROVEMENTS PROGRAM
# FY 2026 - 2031

| Parks - New | | $ | $ | $ | $ | $ | $ | |
|---|---|---|---|---|---|---|---|---|
| **Parks - New - Newly Funded** | | **$ 2,000,000.00** | $ - | $ - | **$ 1,407,498.00** | $ - | $ - | |
| Bike Park | Parks & Recreation | $ 2,000,000.00 | $ 4,983,700.00 | $ - | $ 1,407,498.00 | $ | $ - | ARPA, Bonds, Grants, Other, PIF, Taxes |
| **Parks - New - Carryover** | | **$ 4,013,970.97** | **$ 6,755,000.00** | **$ 1,840,000.00** | **$ 1,000,000.00** | **$ 1,840,000.00** | **$ 1,840,000.00** | |
| Neighborhood Parks | | $ 619,814.00 | $ 2,760,000.00 | $ 920,000.00 | $ 500,000.00 | $ 920,000.00 | $ 920,000.00 | |
| Developer Neighborhood Park Reimbursement | Parks & Recreation | $ 619,814.00 | $ 2,760,000.00 | $ 920,000.00 | $ 500,000.00 | $ 920,000.00 | $ 920,000.00 | **PIF** |
| Chandler Tank Park Phase 1 | Parks & Recreation | $ 1,079,203.05 | $ - | $ - | $ - | $ | $ - | **Bonds, PIF, Taxes** |
| East Mesa Public Safety Area Park | Parks & Recreation | $ 100,000.00 | $ - | $ - | $ - | $ | $ - | **PIF** |
| Highland Park | Parks & Recreation | $ 566,490.69 | $ - | $ - | $ - | $ | $ - | **Bonds, PIF, Taxes** |
| LCIIP Gateway Signage | Economic Development | $ 480,000.00 | $ 85,000.00 | $ - | $ - | $ | $ - | Bonds, Grants, Taxes |
| New Skate Park | Parks & Recreation | $ 313,649.23 | $ 1,150,000.00 | $ - | $ - | $ | $ - | Bonds, Grants, Other, PIF |
| Veteran's Memorial Park Enhancements | Parks & Recreation | $ 235,000.00 | $ - | $ - | $ - | $ | $ - | ARPA, Bonds, Grants, Taxes |
| **Parks - New - Annual** | | **$ 1,100,000.00** | **$ 2,050,000.00** | **$ 1,300,000.00** | **$ 1,300,000.00** | **$ 1,300,000.00** | **$ 1,450,000.00** | |
| Neighborhood Parks | | $ 500,000.00 | $ 500,000.00 | $ 500,000.00 | $ 500,000.00 | $ 500,000.00 | $ 500,000.00 | |
| Neighborhood Parks | Parks & Recreation | $ 500,000.00 | $ 500,000.00 | $ 500,000.00 | $ 500,000.00 | $ 500,000.00 | $ 500,000.00 | **PIF** |
| Land Acquisition, Planning, and Design for Parks | Parks & Recreation | $ 100,000.00 | $ 1,050,000.00 | $ 300,000.00 | $ 300,000.00 | $ 300,000.00 | $ 450,000.00 | Bonds, PIF |
| **Parks - New - Future** | | **$ -** | **$ 350,000.00** | **$ 3,500,000.00** | **$ -** | **$ 2,000,000.00** | **$ 240,000.00** | |
| Event Park | Parks & Recreation | $ - | $ - | $ - | $ - | $ | $ 240,000.00 | ARPA, Bonds, Grants, Other, PIF |
| Waterfalls Park | Parks & Recreation | $ - | $ 350,000.00 | $ 3,500,000.00 | $ - | $ 2,000,000.00 | $ - | Bonds, Grants, PIF, Taxes |
| | **SUBTOTAL** | **$ 7,113,970.97** | **$ 9,155,000.00** | **$ 6,640,000.00** | **$ 3,707,498.00** | **$ 5,140,000.00** | **$ 3,530,000.00** | |

| Public Facilities | | $ | $ | $ | $ | $ | $ | |
|---|---|---|---|---|---|---|---|---|
| **Public Facilities - Newly Funded** | | **$ 522,420.08** | $ - | $ - | $ - | $ | $ - | |
| DC Fast Charger - Electric Vehicle Charger | Sustainability | $ 522,420.08 | $ - | $ - | $ - | $ | $ - | **Grant** |
| **Public Facilities - Carryover** | | **$ 34,244,853.06** | **$ 36,966,431.64** | **$ 43,479,721.32** | **$ 7,672,226.32** | **$ 7,672,226.32** | **$ 59,000.00** | |
| General Facilities Improvements | | $ 8,988,909.16 | $ 20,479,442.00 | $ 35,607,495.00 | $ 1,000,000.00 | $ 1,000,000.00 | $ - | |
| Amador Hotel Renovation | Quality of Life | $ 4,811,333.14 | $ 2,000,000.00 | $ 1,000,000.00 | $ 1,000,000.00 | $ 1,000,000.00 | $ - | Grants, Taxes, TIDD |
| Benavidez Center Kitchen Floor | Quality of Life | $ 82,462.45 | $ - | $ - | $ - | $ | $ - | Grants, Taxes |
| Branch Library | Quality of Life | $ 29,754.68 | $ 1,750,000.00 | $ 17,500,000.00 | $ - | $ | $ - | Bonds, Other, Taxes |
| Branigan Library Renovation and Expansion | Quality of Life | $ 1,164,871.36 | $ 15,310,642.00 | $ 17,107,495.00 | $ - | $ | $ - | Bonds, Grants, Taxes, TIDD |
| *Pending 2025 Legislative Appropriation* | | $ - | *$ 970,000.00* | $ - | $ - | $ | $ - | |
| Frank O'Brien Papen Community Center Rehabilitation | Facilities Management | $ 10,777.79 | $ 448,800.00 | $ - | $ - | $ | $ - | **Taxes** |
| Meerscheidt Recreation Center - Remodel/Expansion | Parks & Recreation | $ 2,157,678.12 | $ - | $ - | $ - | $ | $ - | **Bonds, Taxes** |
| Munson Senior Center Renovations | Quality of Life | $ 661,274.70 | $ - | $ - | $ - | $ | $ - | **Grants** |
| Museum of Nature & Science Atrium Redesign | Quality of Life | $ 43,092.29 | $ - | $ - | $ - | $ | $ - | **Grants, TIDD** |
| Museum Technology Improvements | Quality of Life | $ 210,000.00 | $ - | $ - | $ - | $ | $ - | **TIDD** |
| Generator Buffer Program | | $ - | $ 65,000.00 | $ 15,000.00 | $ 15,000.00 | $ 15,000.00 | $ - | |
| Generator Buffer Program | Facilities Management | $ - | $ 65,000.00 | $ 15,000.00 | $ 15,000.00 | $ 15,000.00 | $ - | Taxes |
| Generator Replacement Program | | $ - | $ 292,537.00 | $ 59,000.00 | $ 59,000.00 | $ 59,000.00 | $ 59,000.00 | |
| Generator Replacement Program | Facilities Management | $ - | $ 292,537.00 | $ 59,000.00 | $ 59,000.00 | $ 59,000.00 | $ 59,000.00 | Taxes |
| Roof Replacement Program | | $ 2,053,215.00 | $ 118,000.00 | $ - | $ - | $ | $ - | |
| Fires Station 4 Re-Roof | Facilities Management | $ 500,000.00 | $ - | $ - | $ - | $ | $ - | **Bonds** |
| Municipal Court Re-Roof | Facilities Management | $ 350,000.00 | $ - | $ - | $ - | $ | $ - | **Bonds** |
| Museum of Art/MoNaS Re-Roof | Facilities Management | $ 815,000.00 | $ - | $ - | $ - | $ | $ - | Bonds, TIDD |
| Railroad Museum Re-roofing | Quality of Life | $ 116,965.00 | $ - | $ - | $ - | $ | $ - | **Bonds** |
| Rio Grande Theater Re-Roof | Facilities Management | $ 271,250.00 | $ 118,000.00 | $ - | $ - | $ | $ - | **TIDD** |
| Branigan Cultural Center Improvements | Quality of Life | $ 1,018,009.00 | $ 2,000,000.00 | $ 1,200,000.00 | $ - | $ | $ - | Grants, Taxes, TIDD |
| East Mesa Public Recreational Complex | Public Works | $ 3,646,681.80 | $ - | $ - | $ - | $ | $ - | **Bonds** |
| *Pending 2025 Legislative Appropriation* | | $ - | *$ 700,000.00* | $ - | $ - | $ | $ - | |
| Electrical Vehicle Fleet Chargers | Facilities Management | $ 72,673.92 | $ 75,000.00 | $ - | $ - | $ | $ - | **Taxes** |
| Fire Station 4 Remodel | Fire Department | $ 550,000.00 | $ - | $ - | $ - | $ | $ - | **Taxes, Other** |
| GO Bond - ARPA | Public Works | $ - | $ - | $ - | $ - | $ | $ - | **Bonds** |
| GO Bond 2022- E. Mesa Recreation Complex | Public Works | $ 1,140,846.56 | $ - | $ - | $ - | $ | $ - | **Bonds** |
| GO Bond 2022- Parks Improvements | Public Works | $ 2,034,781.31 | $ - | $ - | $ - | $ | $ - | **Bonds** |
| GO Bond 2022- Public Art | Quality of Life | $ 240,000.00 | $ - | $ - | $ - | $ | $ - | **Bonds** |
| Municipal Court Rehabilitiation | Public Works | $ 400,000.00 | $ 13,236,452.64 | $ 6,598,226.32 | $ 6,598,226.32 | $ 6,598,226.32 | $ - | Bonds, Grants, Taxes, TIDD |
| Plaza Shade Structures | Economic Development | $ 2,400,000.00 | $ - | $ - | $ - | $ | $ - | **Bonds, Taxes** |
| Public Art Rollover Funding | Quality of Life | $ 88,837.25 | $ - | $ - | $ - | $ | $ - | **Taxes** |
| Regional Community Pool | Public Works | $ 86,439.53 | $ - | $ - | $ - | $ | $ - | **Bonds** |
| Vado Mora Dam Park | Parks & Recreation | $ 300,000.00 | $ - | $ - | $ - | $ | $ - | **Grants, Taxes** |
| Voluntary Assessment District Phase II | Public Works | $ - | $ - | $ - | $ - | $ | $ - | **Bonds** |
| | **SUBTOTAL** | **$ 34,244,853.06** | **$ 57,921,410.64** | **$ 79,161,216.32** | **$ 8,746,226.32** | **$ 8,746,226.32** | **$ 118,000.00** | |

# CITY OF LAS CRUCES
## CAPITAL IMPROVEMENTS PROGRAM
## FY 2026 - 2031

| Public Facilities | | $ | $ | $ | $ | $ | $ | |
|---|---|---|---|---|---|---|---|---|
| **Public Facilities - Annual** | | $ 2,554,202.24 | $ 19,930,734.00 | $ 7,031,140.00 | $ 6,991,140.00 | $ 5,651,140.00 | $ - | |
| ADA Compliance | | $ - | $ 502,400.00 | $ 101,200.00 | $ 101,200.00 | $ 101,200.00 | $ - | |
| ADA Compliance | Facilities Management | $ - | $ 202,400.00 | $ 101,200.00 | $ 101,200.00 | $ 101,200.00 | $ - | Bonds, Grants, Taxes |
| *Pending 2025 Legislative Appropriation* | | $ - | *$ 300,000.00* | $ - | $ - | $ | $ - | |
| Downtown Parking Lots Renovation | | $ - | $ 561,000.00 | $ 280,500.00 | $ 280,500.00 | $ 280,500.00 | $ - | |
| Downtown Parking Lot Program | Facilities Management | $ - | $ 561,000.00 | $ 280,500.00 | $ 280,500.00 | $ 280,500.00 | $ - | **TIDD** |
| Facility Parking Lot Program | | $ 157,678.12 | $ 2,124,600.00 | $ 482,800.00 | $ 482,800.00 | $ 257,800.00 | $ - | |
| Facility Parking Lot Program | Facilities Management | $ 157,678.12 | $ 1,609,000.00 | $ 225,000.00 | $ 225,000.00 | $ | $ - | **Taxes** |
| Parks Parking Lot Rehabilitation Program | Facilities Management | $ - | $ 515,600.00 | $ 257,800.00 | $ 257,800.00 | $ 257,800.00 | $ - | **Bonds, Grants, Taxes** |
| General Facilities Improvements | | $ 102,300.00 | $ 1,387,940.00 | $ 656,470.00 | $ 651,470.00 | $ 656,470.00 | $ - | |
| General Facilities Improvement Program | Facilities Management | $ 102,300.00 | $ 1,000,000.00 | $ 500,000.00 | $ 500,000.00 | $ 500,000.00 | $ - | **Taxes, Telshor** |
| WIA Building (Women's Improvement Association) Rehabilitation | Facilities Management | $ - | $ 387,940.00 | $ 156,470.00 | $ 151,470.00 | $ 156,470.00 | $ - | Taxes, Grants |
| Parks Parking Lots | | $ - | $ 900,000.00 | $ 450,000.00 | $ 450,000.00 | $ | $ - | |
| Parks Parking Lot Program | Parks & Recreation | $ - | $ 900,000.00 | $ 450,000.00 | $ 450,000.00 | $ | $ - | Grants, Other, Taxes |
| Roof Replacement Program | | $ 739,623.00 | $ 1,388,927.00 | $ 336,600.00 | $ 336,600.00 | $ 336,600.00 | $ - | |
| Facility Roof Replacement Program | Facilities Management | $ 199,623.00 | $ 1,072,146.00 | $ 336,600.00 | $ 336,600.00 | $ 336,600.00 | $ - | **Bonds, Taxes, TIDD** |
| Meerscheidt Center Re-Roof | Facilities Management | $ 540,000.00 | $ - | $ - | $ - | $ | $ - | **Bonds** |
| Re-Roof of Castaneda Building | Facilities Management | $ - | $ 316,781.00 | $ - | $ - | $ | $ - | Taxes |
| Safety, Health, Environmental & Emergency | | $ 240,000.00 | $ 3,025,500.00 | $ 1,170,500.00 | $ 1,155,500.00 | $ 1,155,500.00 | $ - | |
| City Security Program | Facilities Management | $ 175,000.00 | $ 555,500.00 | $ 270,500.00 | $ 255,500.00 | $ 255,500.00 | $ - | **Taxes** |
| City Vacant /Abandoned Lots | Facilities Management | $ - | $ 1,650,000.00 | $ 825,000.00 | $ 825,000.00 | $ 825,000.00 | $ - | Taxes |
| Park Sidewalk Repair Program | Facilities Management | $ 65,000.00 | $ 150,000.00 | $ 75,000.00 | $ 75,000.00 | $ 75,000.00 | $ - | Grants, Taxes |
| Security & Fire Alarm Program | Facilities Management | $ - | $ 670,000.00 | $ - | $ - | $ | $ - | Taxes, TIDD |
| Convention Center FF&E | Visit Las Cruces | $ 75,000.00 | $ 150,000.00 | $ 75,000.00 | $ 75,000.00 | $ 75,000.00 | $ - | **Taxes** |
| **Public Facilities - Future** | | $ - | $ 27,698,360.00 | $ 10,905,000.00 | $ 42,331,000.00 | $ 1,300,000.00 | $ - | |
| General Facilities Improvements | | $ - | $ 10,993,180.00 | $ 2,200,000.00 | $ 15,200,000.00 | $ | $ - | |
| East Mesa Multi-Generational Center Expansion (Sage Café) | Quality of Life | $ - | $ 3,083,180.00 | $ - | $ - | $ | $ - | Taxes |
| Eastside Purchase and Renovation | Quality of Life | $ - | $ 2,575,000.00 | $ - | $ - | $ | $ - | Bonds, Grants, Taxes |
| Munson Center Bathrooms | Quality of Life | $ - | $ 250,000.00 | $ - | $ - | $ | $ - | Grants, Taxes |
| Munson Center Floor | Quality of Life | $ - | $ 750,000.00 | $ - | $ - | $ | $ - | Grants, Taxes |
| Museum of Art Improvements | Quality of Life | $ - | $ 615,000.00 | $ 200,000.00 | $ - | $ | $ - | Grants, Taxes |
| Museum of Art/MoNaS Remodel | Quality of Life | $ - | $ 3,000,000.00 | $ - | $ 15,000,000.00 | $ | $ - | Bonds, Grants, Taxes |
| Railroad Museum Exterior Improvements | Quality of Life | $ - | $ 375,000.00 | $ - | $ - | $ | $ - | Bonds, Grants, Taxes |
| Sage Café Library Expansion | Quality of Life | $ - | $ 200,000.00 | $ 2,000,000.00 | $ 200,000.00 | $ | $ - | Grants, Taxes |
| Senior Programs Master Plan | Quality of Life | $ - | $ 145,000.00 | $ - | $ - | $ | $ - | Grants, Taxes |
| Safety, Health, Environmental & Emergency | | $ - | $ 1,300,000.00 | $ 650,000.00 | $ 650,000.00 | $ 650,000.00 | $ - | |
| Rehabilitation and Demolition of Vacant Buildings | Facilities Management | $ - | $ 1,300,000.00 | $ 650,000.00 | $ 650,000.00 | $ 650,000.00 | $ - | Taxes |
| Branigan Library Rehabilitation | Facilities Management | $ - | $ 249,500.00 | $ 2,750,000.00 | $ 1,111,000.00 | $ | $ - | Bonds, Grants, Taxes |
| Legends West Facility Master Plan | Parks & Recreation | $ - | $ 150,000.00 | $ - | $ - | $ | $ - | ARPA, Bonds, Grants, Other, PIF, Taxes |
| MoNaS Nature Center Redesign | Quality of Life | $ - | $ 250,000.00 | $ - | $ - | $ | $ - | Grants, Taxes, TIDD |
| *Pending 2025 Legislative Appropriation* | | $ - | *$ 450,000.00* | $ - | $ - | $ | $ - | |
| Museum System Collections Storage | Quality of Life | $ - | $ - | $ - | $ 9,500,000.00 | $ | $ - | Bonds, Grants, Taxes |
| Plugged in for Good Community Resilience & Energy Hub | Sustainability | $ - | $ 1,932,500.00 | $ 2,000,000.00 | $ - | $ | $ - | Grants |
| Railroad Museum Reinterpretation | Quality of Life | $ - | $ 60,000.00 | $ 225,000.00 | $ - | $ | $ - | Grants, Taxes |
| Safe Haven Outdoor Classroom | Parks & Recreation | $ - | $ 20,000.00 | $ 230,000.00 | $ 20,000.00 | $ | $ - | ARPA, Bonds, Grants, PIF, Taxes |
| | **SUBTOTAL** | **$ 2,554,202.24** | **$ 47,629,094.00** | **$ 17,936,140.00** | **$ 49,322,140.00** | **$ 6,951,140.00** | **$ -** | |

| Public Safety | | $ | $ | $ | $ | $ | $ | |
|---|---|---|---|---|---|---|---|---|
| **Public Safety - Newly Funded** | | $ - | $ - | $ - | $ - | $ | $ - | |
| **Public Safety - Carryover** | | $ 18,385,891.26 | $ 27,476,136.00 | $ - | $ - | $ | $ - | |
| Police Department Equipment | | $ 235,704.81 | $ 1,238,068.00 | $ - | $ - | $ | $ - | |
| Police Shooting Range | Police Department | $ 235,704.81 | $ 290,500.00 | $ - | $ - | $ | $ - | Grants, Other |
| Public Safety Regional Communication System Improvements | Police Department | $ - | $ 500,500.00 | $ - | $ - | $ | $ - | **Grants** |
| Public Safety Vehicle SWAT Command Vehicle | Police Department | $ - | $ 100,000.00 | $ - | $ - | $ | $ - | Grants |
| Public Safety Vehicles - Bearcat | Police Department | $ - | $ 347,068.00 | $ - | $ - | $ | $ - | Grants |
| Safety, Health, Environmental & Emergency | | $ 3,123,635.98 | $ 12,300,000.00 | $ - | $ - | $ | $ - | |
| MIH and CIT response station | Fire Department | $ 2,352,137.98 | $ 3,000,000.00 | $ - | $ - | $ | $ - | **Grants** |
| *Pending 2025 Legislative Appropriation* | | | *$ 5,500,000.00* | $ - | $ - | $ | $ - | Grants |
| Real Time Crime Center (RTCC) | Police Department | $ 879,692.07 | $ 2,000,000.00 | $ - | $ - | $ | $ - | **Grants, Taxes** |
| *Pending 2025 Legislative Appropriation* | | | *$ 1,800,000.00* | $ - | $ - | $ | $ - | Grants |
| Fire Station 9 Build | Fire Department | $ 11,559,015.61 | $ - | $ - | $ - | $ | $ - | **Bonds, Grants, Telshor** |
| Police Department Building Renovation | Police Department | $ - | $ 400,000.00 | $ - | $ - | $ | $ - | Grants, Taxes |
| | **SUBTOTAL** | **$ 18,385,891.26** | **$ 27,476,136.00** | **$ -** | **$ -** | **$ -** | **$ -** | |

# CITY OF LAS CRUCES
## CAPITAL IMPROVEMENTS PROGRAM
## FY 2026 - 2031

| Public Safety | | $ | $ | $ | $ | $ | $ | |
|---|---|---|---|---|---|---|---|---|
| **Public Safety - Annual** | | **$ 268,799.65** | **$ 14,132,000.00** | **$ 240,000.00** | $ - | $ | $ - | |
| Fire Station Improvements | | $ 268,799.65 | $ 5,562,000.00 | $ - | $ - | $ | $ - | |
| Fire Stations Improvements | Fire Department | $ 268,799.65 | $ 5,562,000.00 | $ - | $ - | $ | $ - | **Grants** |
| Fire Department Vehicles and Equipment | Fire Department | $ - | $ 3,008,000.00 | $ - | $ - | $ | $ - | Bonds |
| Fire Station Equipment | Fire Department | $ - | $ 480,000.00 | $ 240,000.00 | $ - | $ | $ - | Grants |
| **Public Safety - Future** | | **$ -** | **$ 6,831,919.00** | **$ 24,675,000.00** | **$ 57,000,000.00** | $ | $ - | |
| Facility Parking Lot Program | | $ - | $ 45,000.00 | $ - | $ - | $ | $ - | |
| Police North Parking Lot Fencing | Police Department | $ - | $ 20,000.00 | $ - | $ - | $ | $ - | Taxes |
| Police Parking Lot Resurfacing | Police Department | $ - | $ 25,000.00 | $ - | $ - | $ | $ - | Taxes |
| Police Department Equipment | | $ - | $ 3,020,000.00 | $ 9,000,000.00 | $ - | $ | $ - | |
| Police Department Equipment - Axon Body Cameras | Police Department | $ - | $ 100,000.00 | $ - | $ - | $ | $ - | Grants, Taxes |
| Police Department Equipment - Mobile Data Terminals | Police Department | $ - | $ 350,000.00 | $ - | $ - | $ | $ - | Grants |
| Police Emergency Vehicles | Police Department | $ - | $ 1,230,000.00 | $ - | $ - | $ | $ - | Grants, PSIF, Taxes |
| Police/Fire Training Facility - Design/Construct | Police Department | $ - | $ - | $ 6,900,000.00 | $ - | $ | $ - | Bonds, Grants, PSIF, Taxes |
| Police/Fire Training Facility - Furniture, Fixtures, and Equipment | Police Department | $ - | $ - | $ 2,100,000.00 | $ - | $ | $ - | Grants, PSIF, Taxes |
| Public Safety Smart Technology | Police Department | $ - | $ 200,000.00 | $ - | $ - | $ | $ - | Grants |
| Solar Canopy protective screen | Police Department | $ - | $ 20,000.00 | $ - | $ - | $ | $ - | Taxes |
| Statewide Critical Incident Response Vehicles | Police Department | $ - | $ 500,000.00 | $ - | $ - | $ | $ - | Grants, Other |
| *Pending 2025 Legislative Appropriation* | | $ - | *$ 620,000.00* | $ - | $ - | $ | $ - | |
| Downtown Public Safety Complex | Police Department | $ - | $ - | $ - | $ 57,000,000.00 | $ | $ - | Bonds, Taxes |
| Police Department Mobile Operation Command Vehicle | Police Department | $ - | $ 701,919.00 | $ - | $ - | $ | $ - | Grants |
| Southwest Station Build | Fire Department | $ - | $ - | $ 6,675,000.00 | $ - | $ | $ - | Taxes |
| | **SUBTOTAL** | **$ 268,799.65** | **$ 20,963,919.00** | **$ 24,915,000.00** | **$ 57,000,000.00** | **$** | **$ -** | |

| Public Transit | | $ | $ | $ | $ | $ | $ | |
|---|---|---|---|---|---|---|---|---|
| **Public Transit - Newly Funded** | | **$ -** | **$ -** | **$ -** | **$ -** | **$** | **$ -** | |
| **Public Transit - Carryover** | | **$ 6,794,791.97** | **$ 5,700,000.00** | **$ -** | **$ -** | **$** | **$ -** | |
| Municipal Service Center - Transit | RoadRunner Transit | $ 487,254.99 | $ - | $ - | $ - | $ | $ - | **Grants, Taxes** |
| Electric Buses (6) | RoadRunner Transit | $ 6,307,536.98 | $ 5,700,000.00 | $ - | $ - | $ | $ - | **Grants, Taxes** |
| **Public Transit - Annual** | | **$ 75,000.00** | **$ 275,000.00** | **$ 75,000.00** | **$ 75,000.00** | **$ 75,000.00** | **$ -** | |
| Transit Facilities Improvement Program | RoadRunner Transit | $ 75,000.00 | $ 275,000.00 | $ 75,000.00 | $ 75,000.00 | $ 75,000.00 | $ - | Grants |
| **Public Transit - Future** | | **$ -** | **$ 12,136,800.00** | **$ -** | **$ -** | **$** | **$ -** | |
| Resiliency Program | | **$ -** | $ 8,146,800.00 | $ - | $ - | $ | $ - | |
| MVITT Inductive Charging | RoadRunner Transit | $ - | $ 5,346,800.00 | $ - | $ - | $ | $ - | Grants |
| *Pending 2025 Legislative Appropriation* | | $ - | $ 100,000.00 | $ - | $ - | $ | $ - | |
| Solar Array | RoadRunner Transit | $ - | $ 2,700,000.00 | $ - | $ - | $ | $ - | Grants |
| Battery Storage | RoadRunner Transit | $ - | $ 3,150,000.00 | $ - | $ - | $ | $ - | Grants |
| Transit Vehicles 26' | RoadRunner Transit | $ - | $ 840,000.00 | $ - | $ - | $ | $ - | Grants |
| | **SUBTOTAL** | **$ 6,869,791.97** | **$ 5,975,000.00** | **$ 75,000.00** | **$ 75,000.00** | **$ 75,000.00** | **$ -** | |

| Resiliency | | $ | $ | $ | $ | $ | $ | |
|---|---|---|---|---|---|---|---|---|
| **Resiliency - Newly Funded** | | **$ -** | **$ -** | **$ -** | **$ -** | **$** | **$ -** | |
| **Resiliency - Carryover** | | **$ 1,799,367.16** | **$ 730,000.00** | **$ -** | **$ -** | **$** | **$ -** | |
| Resiliency Program | | $ 814,357.10 | $ 365,000.00 | $ - | $ - | $ | $ - | |
| *Pending Design Approval - Ethel Ave.* | | $ - | *$ 365,000.00* | | | | | |
| Melendres Ave/Pittsburg - Hadley to Picacho | Public Works | $ 814,357.10 | | | | | | **Bonds** |
| Solar Photovoltaic/Storage Projects | Sustainability | $ 170,652.96 | $ - | $ - | $ - | $ | $ - | **Taxes** |
| **Resiliency - Annual** | | **$ 7,098,822.08** | **$ 10,410,000.00** | **$ 1,000,000.00** | **$ 1,000,000.00** | **$ 1,000,000.00** | **$ -** | |
| Drainage Infrastructure Improvements | | $ 3,143,375.00 | $ 1,000,000.00 | $ 500,000.00 | $ 500,000.00 | $ 500,000.00 | $ - | |
| Drainage Infrastructure Improvements | Public Works | $ 3,143,375.00 | $ 1,000,000.00 | $ 500,000.00 | $ 500,000.00 | $ 500,000.00 | $ - | **Taxes** |
| *Resiliency Program* | | $ 406,036.04 | $ 100,000.00 | $ - | $ - | $ | $ - | |
| Casa Linda Acres Reconstruction | Public Works | $ 273,612.10 | $ - | $ - | $ - | $ | $ - | **Taxes** |
| East Mesa Roads and Drainage | Public Works | $ 110,110.45 | $ - | $ - | $ - | $ | $ - | **Taxes** |
| Storm Water System Mapping | Public Works | $ 22,313.49 | $ 100,000.00 | $ - | $ - | $ | $ - | **Taxes** |
| **Resiliency - Future** | | **$ -** | **$ 4,105,000.00** | **$ -** | **$ -** | **$** | **$ -** | |
| DC Fast Chargers for Electric Vehicles | Sustainability | $ - | $ 200,000.00 | $ - | $ - | $ | $ - | Grants, Taxes |
| Fleet electric vehicle chargers (dual chargers) | Sustainability | $ - | $ 400,000.00 | $ - | $ - | $ | $ - | Grants, Taxes |
| Happy Ave Complex Recreation Rehabilitation | Parks & Recreation | $ - | $ 3,305,000.00 | $ - | $ - | $ | $ - | Grants |
| Public Electric Vehicle Chargers (8 dual) | Sustainability | $ - | $ 200,000.00 | $ - | $ - | $ | $ - | Grants, Taxes |
| | **SUBTOTAL** | **$ 8,898,189.24** | **$ 11,140,000.00** | **$ 1,000,000.00** | **$ 1,000,000.00** | **$ 1,000,000.00** | **$ -** | |

# CITY OF LAS CRUCES
# CAPITAL IMPROVEMENTS PROGRAM
# FY 2026 - 2031

| | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| **Streets - New** | | $ | | $ | | $ | | $ | | $ | |
| **Streets - New - Newly Funded** | | $ | - | $ | - | $ | - | $ | - | $ | - |
| **Streets - New - Carryover** | | $ | - | $ | - | $ | - | $ | - | $ | - |
| **Streets - New - Annual** | | $ | - | $ | - | $ | - | $ | - | $ | - |
| **Streets - New - Future** | | $ | - | $ | 48,848,000.00 | $ | - | $ | - | $ | - |
| High Mesa Road | Economic Development | $ | - | $ | 32,000,000.00 | $ | - | $ | - | $ | - |
| Transit Loop Road | Economic Development | $ | - | $ | 16,848,000.00 | $ | - | $ | - | $ | - |
| | **SUBTOTAL** | $ | - | $ | 48,848,000.00 | $ | - | $ | - | $ | - |

| | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| **Streets Improvements** | | $ | | $ | | $ | | $ | | $ | |
| **Streets Improvements - Newly Funded** | | $ | - | $ | - | $ | - | $ | - | $ | - |
| **Streets Improvements - Carryover** | | $ | 43,089,980.12 | $ | 32,216,667.00 | $ | 2,740,000.00 | $ | 2,500,000.00 | $ | 740,000.00 |
| Complete Streets Program | | $ | 3,441,490.29 | $ | - | $ | - | $ | - | $ | - |
| East Mesa Roads and Drainage | Public Works | $ | 2,353,051.27 | $ | - | $ | - | $ | - | $ | - |
| Melendres Ave/Pittsburg - Hadley to Picacho | Public Works | $ | 405,646.80 | $ | - | $ | - | $ | - | $ | - |
| South Main St - Avenida de Mesilla to Boutz | Public Works | $ | 1,100,000.00 | $ | - | $ | - | $ | - | $ | - |
| University Area Complete Streets | Public Works | $ | 302,032.38 | $ | - | $ | - | $ | - | $ | - |
| Downtown Street Improvements | | $ | 7,444,019.62 | $ | 10,000,000.00 | $ | - | $ | - | $ | - |
| Alameda Blvd - S. Main St to W Las Cruces Ave | Public Works | $ | 750,000.00 | $ | 10,000,000.00 | $ | - | $ | - | $ | - |
| Campo Street Design and Reconstruction | Public Works | $ | 6,670,567.38 | $ | - | $ | - | $ | - | $ | - |
| Lift Up Las Cruces - Street Improvements | | $ | 567,773.64 | $ | 1,800,000.00 | $ | - | $ | - | $ | - |
| Sacramento St - Poplar Ave to Oasis Ave | Public Works | $ | 567,773.64 | $ | 1,800,000.00 | $ | - | $ | - | $ | - |
| Median Landscaping | | $ | 317,917.00 | $ | 2,240,000.00 | $ | 1,120,000.00 | $ | 1,000,000.00 | $ | 120,000.00 |
| Lohman Ave & Roadrunner Parkway Medians | Parks & Recreation | $ | 311,366.00 | $ | - | $ | - | $ | - | $ | - |
| Medians | Parks & Recreation | $ | - | $ | 2,240,000.00 | $ | 1,120,000.00 | $ | 1,000,000.00 | $ | 120,000.00 |
| Street Lighting & Traffic Signal Maintenance Program | | $ | 896,694.84 | $ | - | $ | - | $ | - | $ | - |
| Mesquite Historic District | Public Works | $ | 896,694.84 | $ | - | $ | - | $ | - | $ | - |
| Traffic Signal Program | | $ | 1,150,887.00 | $ | - | $ | - | $ | - | $ | - |
| Bataan Memorial at Rinconada | Public Works | $ | 1,150,887.00 | $ | - | $ | - | $ | - | $ | - |
| Casa Linda Acres Reconstruction | Public Works | $ | 4,058,653.48 | $ | - | $ | - | $ | - | $ | - |
| E Lohman Ave & S Walnut St Traffic Signal MAP | Public Works | $ | 515,981.00 | $ | 286,667.00 | $ | - | $ | - | $ | - |
| East Mesa Roads and Drainage | Public Works | $ | 1,792,760.47 | $ | 1,000,000.00 | $ | 500,000.00 | $ | 500,000.00 | $ | 500,000.00 |
| Johnson St - Rouault Ave to Topley Ave | Public Works | $ | 810,111.00 | $ | - | $ | - | $ | - | $ | - |
| Madrid Ave Extension - Evelyn St to N Triviz Dr | Public Works | $ | 932,620.74 | $ | - | $ | - | $ | - | $ | - |
| South Main St - Avenida de Mesilla to Boutz | Public Works | $ | 6,078,544.32 | $ | - | $ | - | $ | - | $ | - |
| Telshor Spruce Intersection Improvements | Public Works | $ | 574,507.41 | $ | 2,850,000.00 | $ | - | $ | - | $ | - |
| **Streets Improvements - Annual** | | $ | 20,710,310.68 | $ | 47,779,050.00 | $ | 22,084,050.00 | $ | 31,084,050.00 | $ | 27,798,000.00 |
| Drainage Infrastructure Improvements | | $ | 15,450.00 | $ | 160,000.00 | $ | 80,000.00 | $ | 80,000.00 | $ | 80,000.00 |
| CO-OP Match | Public Works | $ | 15,450.00 | $ | 160,000.00 | $ | 80,000.00 | $ | 80,000.00 | $ | 80,000.00 |
| Neighborhood Traffic Calming Program | | $ | 240,000.00 | $ | 120,000.00 | $ | 60,000.00 | $ | 60,000.00 | $ | 60,000.00 |
| Neighborhood Traffic Calming Program | Public Works | $ | 240,000.00 | $ | 120,000.00 | $ | 60,000.00 | $ | 60,000.00 | $ | 60,000.00 |
| Pavement Condition Index Improvements | | $ | 5,213,019.34 | $ | 12,600,000.00 | $ | 6,300,000.00 | $ | 6,300,000.00 | $ | 6,300,000.00 |
| Pavement Condition Index Improvements | Public Works | $ | 5,213,019.34 | $ | 12,600,000.00 | $ | 6,300,000.00 | $ | 6,300,000.00 | $ | 6,300,000.00 |
| Pavement Marking Program | | $ | 222,500.00 | $ | 169,000.00 | $ | 169,000.00 | $ | 169,000.00 | $ | 169,000.00 |
| Pavement Marking Program | Public Works | $ | 222,500.00 | $ | 169,000.00 | $ | 169,000.00 | $ | 169,000.00 | $ | 169,000.00 |
| Roadway Maintenance Program | | $ | 1,980,000.00 | $ | 1,950,000.00 | $ | 1,950,000.00 | $ | 1,950,000.00 | $ | 470,000.00 |
| Chip Seal Program | Public Works | $ | 200,000.00 | $ | 200,000.00 | $ | 200,000.00 | $ | 200,000.00 | $ | 220,000.00 |
| Roadway Maintenance Program | Public Works | $ | 1,530,000.00 | $ | 1,500,000.00 | $ | 1,500,000.00 | $ | 1,500,000.00 | $ | - |
| Unpaved Roads | Public Works | $ | 250,000.00 | $ | 250,000.00 | $ | 250,000.00 | $ | 250,000.00 | $ | 250,000.00 |
| Street Lighting & Traffic Signal Maintenance Program | | $ | 1,099,291.00 | $ | 6,200,000.00 | $ | 1,000,000.00 | $ | 5,500,000.00 | $ | 5,500,000.00 |
| Street Lighting and Traffic Signal Maintenance | Public Works | $ | 1,099,291.00 | $ | 500,000.00 | $ | 500,000.00 | $ | 500,000.00 | $ | 500,000.00 |
| Street Lighting Management System | Public Works | $ | - | $ | 5,500,000.00 | $ | 500,000.00 | $ | 5,000,000.00 | $ | 5,000,000.00 |
| *Pending 2025 Legislative Appropriation* | | $ | - | $ | *200,000.00* | $ | - | $ | - | $ | - |
| Traffic Signal Program | | $ | 1,150,000.00 | $ | 2,000,000.00 | $ | 1,000,000.00 | $ | 1,000,000.00 | $ | 1,000,000.00 |
| Transportation System Modernization ITS | Public Works | $ | 1,150,000.00 | $ | 2,000,000.00 | $ | 1,000,000.00 | $ | 1,000,000.00 | $ | 1,000,000.00 |
| Weed Control & Maintenance Program | | $ | 155,525.00 | $ | 155,525.00 | $ | 155,525.00 | $ | 155,525.00 | $ | - |
| Weed Control & Maintenance Program | Public Works | $ | 155,525.00 | $ | 155,525.00 | $ | 155,525.00 | $ | 155,525.00 | $ | - |
| Land Acquisition - Public Works | Public Works | $ | 243,740.00 | $ | 500,000.00 | $ | 250,000.00 | $ | 250,000.00 | $ | 250,000.00 |
| MPO Match | Public Works | $ | 75,000.00 | $ | 330,000.00 | $ | 165,000.00 | $ | 165,000.00 | $ | 150,000.00 |
| Materials Testing | Public Works | $ | 240,000.00 | $ | 240,000.00 | $ | 240,000.00 | $ | 240,000.00 | $ | 240,000.00 |
| | **SUBTOTAL** | $ | 63,800,290.80 | $ | 79,995,717.00 | $ | 24,824,050.00 | $ | 33,584,050.00 | $ | 28,538,000.00 |

| | | | |
|---|---|---|---|
| **Streets Improvements** | | $ | |
| **Streets Improvements - Newly Funded** | | $ | - |
| **Streets Improvements - Carryover** | | $ | 2,240,000.00 |
| Complete Streets Program | | $ | - |
| East Mesa Roads and Drainage | Public Works | $ | - |
| Melendres Ave/Pittsburg - Hadley to Picacho | Public Works | $ | - |
| South Main St - Avenida de Mesilla to Boutz | Public Works | $ | - |
| University Area Complete Streets | Public Works | $ | - |
| Downtown Street Improvements | | $ | - |
| Alameda Blvd - S. Main St to W Las Cruces Ave | Public Works | $ | - |
| Campo Street Design and Reconstruction | Public Works | $ | - |
| Lift Up Las Cruces - Street Improvements | | $ | - |
| Sacramento St - Poplar Ave to Oasis Ave | Public Works | $ | - |
| Median Landscaping | | $ | 1,120,000.00 |
| Lohman Ave & Roadrunner Parkway Medians | Parks & Recreation | $ | - |
| Medians | Parks & Recreation | $ | 1,120,000.00 |
| Street Lighting & Traffic Signal Maintenance Program | | $ | - |
| Mesquite Historic District | Public Works | $ | - |
| Traffic Signal Program | | $ | - |
| Bataan Memorial at Rinconada | Public Works | $ | - |
| Casa Linda Acres Reconstruction | Public Works | $ | - |
| E Lohman Ave & S Walnut St Traffic Signal MAP | Public Works | $ | - |
| East Mesa Roads and Drainage | Public Works | $ | - |
| Johnson St - Rouault Ave to Topley Ave | Public Works | $ | - |
| Madrid Ave Extension - Evelyn St to N Triviz Dr | Public Works | $ | - |
| South Main St - Avenida de Mesilla to Boutz | Public Works | $ | - |
| Telshor Spruce Intersection Improvements | Public Works | $ | - |
| **Streets Improvements - Annual** | | $ | 500,000.00 |
| Drainage Infrastructure Improvements | | $ | - |
| CO-OP Match | Public Works | $ | - |
| Neighborhood Traffic Calming Program | | $ | - |
| Neighborhood Traffic Calming Program | Public Works | $ | - |
| Pavement Condition Index Improvements | | $ | - |
| Pavement Condition Index Improvements | Public Works | $ | - |
| Pavement Marking Program | | $ | - |
| Pavement Marking Program | Public Works | $ | - |
| Roadway Maintenance Program | | $ | 250,000.00 |
| Chip Seal Program | Public Works | $ | - |
| Roadway Maintenance Program | Public Works | $ | - |
| Unpaved Roads | Public Works | $ | 250,000.00 |
| Street Lighting & Traffic Signal Maintenance Program | | $ | - |
| Street Lighting and Traffic Signal Maintenance | Public Works | $ | - |
| Street Lighting Management System | Public Works | $ | - |
| *Pending 2025 Legislative Appropriation* | | $ | - |
| Traffic Signal Program | | $ | - |
| Transportation System Modernization ITS | Public Works | $ | - |
| Weed Control & Maintenance Program | | $ | - |
| Weed Control & Maintenance Program | Public Works | $ | - |
| Land Acquisition - Public Works | Public Works | $ | - |
| MPO Match | Public Works | $ | - |
| Materials Testing | Public Works | $ | - |
| | **SUBTOTAL** | $ | - |

# CITY OF LAS CRUCES
## CAPITAL IMPROVEMENTS PROGRAM
## FY 2026 - 2031

| Streets Improvements | | $ | $ | $ | $ | $ | $ | |
|---|---|---|---|---|---|---|---|---|
| **Streets Improvements - Future** | | $ - | $ 36,055,309.51 | $ 21,630,000.00 | $ 13,562,360.00 | $ 12,755,000.00 | $ 2,540,000.00 | |
| Downtown Street Improvements | | $ - | $ 750,000.00 | $ - | $ - | $ | $ - | |
| Alameda Blvd - Las Cruces Ave to Picacho Ave | Public Works | $ - | $ 750,000.00 | $ - | $ - | $ | $ - | TIDD |
| Street Lighting & Traffic Signal Maintenance Program | | $ - | $ - | $ - | $ 50,000.00 | $ | $ - | |
| Targeted Road and Lighting Improvements - Design | Public Works | $ - | $ - | $ - | $ 50,000.00 | $ | $ - | Taxes |
| Traffic Signal Program | | $ - | $ 1,500,000.00 | $ - | $ - | $ | $ - | |
| Lohman at Walnut and Walton Signal Improvement | Public Works | $ - | $ 1,500,000.00 | $ - | $ - | $ | $ - | Other |
| Advancement Ave Expansion | Economic Development | $ - | $ 516,383.56 | $ - | $ - | $ | $ - | Bonds, Grants |
| Armijo St - W Organ Ave to W Mountain Ave | Public Works | $ - | $ - | $ 1,800,000.00 | $ - | $ | $ - | Bonds, Taxes |
| Armijo St - W Picacho Ave to Parker Rd | Public Works | $ - | $ 1,450,000.00 | $ - | $ - | $ | $ - | Bonds, Taxes |
| Aspen Ave-Sequioa Ave to S Valley Dr | Public Works | $ - | $ - | $ - | $ 3,475,600.00 | $ | $ - | Bonds, Grants, Taxes |
| Elm St & Tamarack Dr from Aspen Ave to Sequoia Ave | Public Works | $ - | $ - | $ - | $ - | $ 2,380,000.00 | $ - | Bonds, Grants, Other, Taxes |
| Evelyn St - Madrid Ave to Ash Ave | Public Works | $ - | $ 3,600,000.00 | $ - | $ - | $ | $ - | Bonds, Grants, Taxes |
| Hayner Ave.- N. Valley Dr to N. Compress Rd and Sixth St- Hayner Ave to W. Hadley Ave | Public Works | $ - | $ 3,293,850.00 | $ - | $ - | $ | $ - | Bonds, Taxes |
| Hickory Dr & Sycamore Dr from Aspen Ave to Sequoia Ave | Public Works | $ - | $ - | $ - | $ - | $ | $ 2,540,000.00 | Bonds, Grants, Taxes |
| Kilmer St - Spruce Ave to Ash Ave | Public Works | $ - | $ 2,000,000.00 | $ - | $ - | $ | $ - | Bonds, Taxes |
| La Fonda Dr - Idaho Ave to E.O.P. | Public Works | $ - | $ 1,200,000.00 | $ - | $ - | $ | $ - | Bonds, Taxes |
| LCIIP Infrastructure Improvements | Economic Development | $ - | $ 5,000,000.00 | $ - | $ - | $ | $ - | Grants, Taxes |
| McClure Rd & Carlyle Dr Pond, Road & Drainage Improvements | Public Works | $ - | $ 2,500,000.00 | $ 3,000,000.00 | $ 2,000,000.00 | $ | $ - | Grants, Other, Taxes |
| Med Park - Idaho Ave. to Perkins St. | Public Works | $ - | $ 2,545,300.00 | $ - | $ - | $ | $ - | Bonds, Taxes |
| Miranda Ave - Picacho Ave to Court Ave | Public Works | $ - | $ - | $ - | $ 2,700,000.00 | $ | $ - | Bonds, Taxes |
| Mountain Ave - Melendres St to Armijo St | Public Works | $ - | $ 2,542,986.00 | $ - | $ - | $ | $ - | Bonds, Taxes |
| Mountain Vista Parkway Expansion | Economic Development | $ - | $ 1,200,473.54 | $ - | $ - | $ | $ - | Grants, Taxes |
| Parkview - Espina to W Park Dr | Public Works | $ - | $ - | $ - | $ 1,200,000.00 | $ | $ - | Taxes |
| Poplar Ave - Mesquite St to Santa Fe St | Public Works | $ - | $ 1,100,000.00 | $ - | $ - | $ | $ - | Bonds, Taxes |
| Rigsby Rd - Barker to Valley Dr | Public Works | $ - | $ - | $ 850,000.00 | $ - | $ | $ - | Bonds, Taxes |
| Rocket Drive Expansion | Economic Development | $ - | $ 5,956,316.41 | $ - | $ - | $ | $ - | Bonds, Grants, Taxes |
| Scoggins Ave-Sixth St to Sweet St | Public Works | $ - | $ - | $ 1,180,000.00 | $ - | $ | $ - | Taxes |
| Sequoia Ave - Valley Dr to EOP | Public Works | $ - | $ - | $ 3,000,000.00 | $ - | $ | $ - | Bonds, Grants, Taxes |
| Solano Dr- Missouri to Lohman | Public Works | $ - | $ - | $ - | $ - | $ 10,375,000.00 | $ - | Other |
| South Valley Dr Reconstruction - Avenida de Mesilla to Boutz | Public Works | $ - | $ - | $ 11,800,000.00 | $ - | $ | $ - | Bonds, Grants, Taxes |
| Sweet St- Hayner Ave to W. Hadley Ave | Public Works | $ - | $ - | $ - | $ 1,761,760.00 | $ | $ - | Taxes |
| Venture Blvd Expansion | Economic Development | $ - | $ 900,000.00 | $ - | $ - | $ | $ - | Grants, Taxes |
| Westgate St - Amador Ave to Cul de Sac | Public Works | $ - | $ - | $ - | $ 2,375,000.00 | $ | $ - | Bonds, Grants, Taxes |
| | **SUBTOTAL** | **$36,422,947.56** | **$ 78,656,501.51** | **$ 34,619,525.00** | **$ 30,931,885.00** | **$ 27,594,000.00** | **$ 3,910,000.00** | |

| Utilities | | $ | $ | $ | $ | $ | $ | |
|---|---|---|---|---|---|---|---|---|
| **Utilities - Newly Funded** | | $ - | $ - | $ - | $ - | $ | $ - | |
| **Utilities - Carryover** | | **$ 60,472,684.12** | **$ 85,111,060.00** | **$ 21,887,221.00** | **$ 8,562,969.00** | **$ 3,615,000.00** | **$ 4,892,239.00** | |
| Gas Admin Building Improvements | Utilities | $ 769,353.00 | $ 446,666.00 | $ 748,998.00 | $ 125,000.00 | $ 125,000.00 | $ - | **Other** |
| Gas Development | Utilities | $ 1,081,272.00 | $ - | $ - | $ - | $ | $ - | **Other** |
| Gas Miscellaneous | Utilities | $ 358,923.00 | $ 175,000.00 | $ 175,000.00 | $ 175,000.00 | $ 175,000.00 | $ - | **Other** |
| Gas PHMSA Grant | Utilities | $ 10,000,000.00 | $ 7,972,055.00 | $ - | $ - | $ | $ - | **Grants** |
| Gas Rehabilitation | Utilities | $ 2,532,144.00 | $ 2,999,467.00 | $ 5,488,493.00 | $ 360,000.00 | $ 1,080,000.00 | $ 360,000.00 | **Other** |
| Solid Waste Building Improvements | Utilities | $ 1,505,534.00 | $ 2,319,166.00 | $ 1,750,000.00 | $ 125,000.00 | $ 125,000.00 | $ 125,000.00 | **Other** |
| Wastewater Building Improvements | Utilities | $ 5,741,500.12 | $ 420,000.00 | $ 50,000.00 | $ 50,000.00 | $ 50,000.00 | $ 50,000.00 | **Other** |
| Wastewater Development | Utilities | $ 1,021,522.00 | $ 156,000.00 | $ - | $ - | $ | $ - | **Other** |
| Wastewater Miscellaneous | Utilities | $ - | $ 341,569.00 | $ 260,000.00 | $ 260,000.00 | $ 260,000.00 | $ 260,000.00 | **Other** |
| Wastewater Rehabilitation | Utilities | $ 3,075,127.00 | $ 5,616,439.00 | $ 5,811,040.00 | $ 500,000.00 | $ 720,000.00 | $ 410,000.00 | **Other** |
| Wastewater Septic Systems | Utilities | $ 212,398.00 | $ 47,677,216.00 | $ - | $ - | $ | $ - | **Grants** |
| *Pending 2025 Legislative Appropriation* | | $ - | $ 268,000.00 | $ - | $ - | $ | $ - | |
| Water 2025 Projects | Utilities | $ 14,300,000.00 | $ - | $ - | $ - | $ | $ - | **Other** |
| Water Building Improvements | Utilities | $ 180,226.00 | $ 554,385.00 | $ 250,000.00 | $ 125,000.00 | $ 125,000.00 | $ 125,000.00 | **Other** |
| Water Development | Utilities | $ 151,724.00 | $ 5,298,864.00 | $ 261,272.00 | $ 2,745,624.00 | $ | $ - | **WIF** |
| Water Miscellaneous | Utilities | $ 75,000.00 | $ 1,552,187.00 | $ 1,046,277.00 | $ 795,784.00 | $ 105,000.00 | $ 60,000.00 | **WIF** |
| Water Rehab | Utilities | $ 4,700,027.00 | $ 9,314,046.00 | $ 6,046,141.00 | $ 3,301,561.00 | $ 850,000.00 | $ 3,502,239.00 | **Other** |
| WW23 Projects | Utilities | $ 14,767,934.00 | $ - | $ - | $ - | $ | $ - | **Other** |
| | **SUBTOTAL** | **$ 60,472,684.12** | **$ 85,111,060.00** | **$ 21,887,221.00** | **$ 8,562,969.00** | **$ 3,615,000.00** | **$ 4,892,239.00** | |

# CITY OF LAS CRUCES
## CAPITAL IMPROVEMENTS PROGRAM
## FY 2026 - 2031

| Utilities | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| **Utilities - Annual** | | $ - | $ - | $ - | $ - | $ | $ - | |
| **Utilities - Future** | | $ - | $ 64,656,940.72 | $ 9,496,380.10 | $ 7,700,787.00 | $ 10,209,133.00 | $ 11,850,960.00 | |
| Belt Filter Press Drainage Improvement | Utilities | $ - | $ 100,000.00 | $ - | $ - | $ | $ - | Other |
| Lead and Copper Service Line Replacement | Utilities | $ - | $ 6,539,951.00 | $ 4,750,656.00 | $ 5,700,787.00 | $ 8,209,133.00 | $ 9,850,960.00 | Bonds, Grants |
| Lift Station Stationary Generator Installation | Utilities | $ - | $ 100,000.00 | $ - | $ - | $ | $ - | Other |
| Pressure Reducing Valve Rehabilitation | Utilities | $ - | $ 100,000.00 | $ - | $ - | $ | $ - | Other |
| Primary Digester Sludge Pump Upgrade | Utilities | $ - | $ 93,000.00 | $ - | $ - | $ | $ - | Other |
| SCADA Operating System Replacement | Utilities | $ - | $ 2,000,000.00 | $ 1,000,000.00 | $ 1,000,000.00 | $ 1,000,000.00 | $ 1,000,000.00 | Grants |
| Sewer Connections | Utilities | $ - | $ 1,000,000.00 | $ 500,000.00 | $ 500,000.00 | $ 500,000.00 | $ 500,000.00 | Grants |
| Transite Pipe Identification & Replacement | Utilities | $ - | $ 5,500,000.00 | $ 500,000.00 | $ 500,000.00 | $ 500,000.00 | $ 500,000.00 | Bonds, Grants, Other |
| Wastewater Treatment Plant | Economic Development | $ - | $ 45,839,309.00 | $ - | $ - | $ | $ - | Bonds, Grants, Taxes |
| Water Storage Tank Rehab | Utilities | $ - | $ 3,000,000.00 | $ - | $ - | $ | $ - | Other |
| Water Valve Replacements | Utilities | $ - | $ 120,000.00 | $ - | $ - | $ | $ - | Other |
| Well 66 | Utilities | | $ 264,680.72 | $ 2,745,724.10 | $ - | $ | $ - | Grants |
| | **SUBTOTAL** | **$52,275,039.70** | **$ 64,656,940.72** | **$ 9,496,380.10** | **$ 7,700,787.00** | **$ 10,209,133.00** | **$ 11,850,960.00** | |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | $ | $ | $ | $ | $ | $ | |
| **Total Newly Funded** | **$9,199,736.08** | **$ 181,500.00** | **$ -** | **$ -** | **$** | **$ -** | |
| **Total Carryover** | **$174,046,267.83** | **$ 202,668,990.83** | **$ 71,056,942.32** | **$ 21,510,195.32** | **$ 15,727,226.32** | **$ 10,016,239.00** | |
| **Total Annual** | **$18,637,687.75** | **$ 54,024,392.00** | **$ 19,513,095.00** | **$ 23,354,095.00** | **$ 21,633,570.00** | **$ 1,700,000.00** | |
| **Total Future** | $ - | **$ 246,067,349.23** | **$ 88,348,380.10** | **$ 155,711,645.00** | **$ 101,384,133.00** | **$ 37,330,960.00** | |
| **GRAND TOTAL** | **$201,883,691.66** | **$ 502,942,232.06** | **$ 178,918,417.42** | **$ 200,575,935.32** | **$ 138,744,929.32** | **$ 49,047,199.00** | |

**Abbreviations:**

ARPA - American Rescue Plan Act

Bonds - Includes Bonds and Loans

Grants - Includes Local, State, Federal, or private entity

Other - Includes Fees, State Entitlements, Leases, Developer Contributions and Donations

PIF - Park Impact Fees

PSIF - Public Safety Impact Fees

TIDD - Tax Increment Development District

WIF - Water Impact Fees

WWIF - Wastewater Impact Fees

**Notes:**

*Pending funding noted in italic*

*Pending 2025 Legislative Appropriations/Capital Outlay*

Current funding sources noted in bold

# CAPITAL IMPROVEMENTS PROGRAM (CIP)
## Amendments
## City Council Meeting - November 17, 2025

Attachment "A"

**Project:**
Dona Ana Move Trail

**Scope of Work:**
Construct a new multi-use trail along various EBID laterals within Dona Ana County and Mesilla including seeking a use permit from the Elephant Butte Irrigation District.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Active Transportations | Parks and Recreations | $801,692 | ($392,223) | $409,469 | Adjustments to reflect revised project funding. | 1 |

**Project:**
University Multi-Use Trail Loop

**Scope of Work:**
Construct a multi-use trail including street crossings, use permit from EBID and other permits.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Active Transportations | Parks and Recreations | $987,854 | ($399,365) | $588,489 | Adjustments to reflect revised project funding. | 1 |

# CAPITAL IMPROVEMENTS PROGRAM (CIP)
## Amendments
## City Council Meeting - November 17, 2025

**Project:**
City Hall Security Upgrades

**Scope of Work:**
To install city hall security upgrades.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| City Operational Facilities | Facilities Management | $0 | $76,607 | $76,607 | Adjustments to reflect revised project funding. | 2 |

**Project:**
Senior Program Equipment and Rolling Stock

**Scope of Work:**
The purchase of vehicles and equipment for Senior Programs services such as Nutrition, Long Term Care and Recreation.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Equipments & IT | Quality of Life | $110,000 | ($110,000) | $0 | Adjustments to reflect revised project funding. | 2 |

# CAPITAL IMPROVEMENTS PROGRAM (CIP)
## Amendments
## City Council Meeting - November 17, 2025

**Project:**
MVCH Health Facility Improvements

**Scope of Work:**
Construction and landscaping for the health facility and both of its suites to accommodate staff and patient parking, as well as the containment of its vehicles.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Non-Profits | Non-Profits | $1,162,844 | ($1,131,529) | $31,315 | Adjustments to reflect revised project funding. | 3 |

**Project:**
Arts and Cultural District Improvements

**Scope of Work:**
Installation of lighting  and other equipments for the art and culture district.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Non-Profits | Non-Profits | $2,680,942 | ($1,165,272) | $1,515,670 | Adjustments to reflect revised project funding. | 3 |

# CAPITAL IMPROVEMENTS PROGRAM (CIP)
## Amendments
## City Council Meeting - November 17, 2025

**Project:**
Jardin de los Niños Re-Roof

**Scope of Work:**
Repair, replacements, or improvement of the roof which has multiple leaks and is damaging the existing building.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Non-Profits | Non-Profits | $112,660 | ($104,914) | $7,745 | Adjustments to reflect revised project funding. | 3 |

**Project:**
MVCoH Restroom Showers & Mechanical Room

**Scope of Work:**
Fixing of MVCoH Restroom Showers & Mechanical Room

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Non-Profits | Non-Profits | $269,000 | $115,128 | $384,128 | Adjustments to reflect revised project funding. | 3 |

# CAPITAL IMPROVEMENTS PROGRAM (CIP)
## Amendments
## City Council Meeting - November 17, 2025

**Project:**
The Kitchens at MVCOH

**Scope of Work:**
Create a 17,000 foot shared space to house the soup kitchen and create a licensed commercial space for food production open to renters and vendors.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Non-Profits | Non-Profits | $2,981,899 | ($26,056) | $2,955,842 | Adjustments to reflect revised project funding. | 3 |

**Project:**
Apodaca Park Aquatic Playground and Multi-Use Path

**Scope of Work:**
Make improvements to existing playground equipment Apocada Park.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Parks Improvements | Parks & Recreation | $1,352,340 | ($160,987) | $1,191,353 | Adjustments to reflect revised project funding. | 3 |

# CAPITAL IMPROVEMENTS PROGRAM (CIP)
## Amendments
## City Council Meeting - November 17, 2025

**Project:**
Ballfield/Multi-Use Field Renovations & Upgrades

**Scope of Work:**
Make improvements to existing playground equipment Ballfield Field.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Parks Improvements | Parks & Recreation | $187,308 | ($172,592) | $14,716 | Adjustments to reflect revised project funding. | 3 |

**Project:**
Klein Park Improvements

**Scope of Work:**
Make improvements to existing playground equipment Klein Park.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Parks Improvements | Parks & Recreation | $13,086 | ($13,086) | $0 | Adjustments to reflect revised project funding. | 3 |

# CAPITAL IMPROVEMENTS PROGRAM (CIP)
## Amendments
## City Council Meeting - November 17, 2025

**Project:**
Legacy Park Renovations

**Scope of Work:**
Renovation of existing park features and the construction of new park improvements to modernize facilities, increase efficiency on the Legacy Parks.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Parks Improvements | Parks & Recreation | $2,523,525 | ($604,394) | $1,919,131 | Adjustments to reflect revised project funding. | 3 |

**Project:**
Park Drinking Fountains

**Scope of Work:**
Repair, replacement, upgrades to existing water service lines, pumps, drinking fountains, inclusion of bottle fillers, dog bowls, and ADA accessability.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Parks Improvements | Parks & Recreation | $444,387 | $519,405 | $963,792 | Adjustments to reflect revised project funding. | 3 |

# CAPITAL IMPROVEMENTS PROGRAM (CIP)
## Amendments
## City Council Meeting - November 17, 2025

**Project:**
Skate Park Improvements

**Scope of Work:**
Concrete work, drainage enhancements, installation of new and refurbished skate features, fencing repairs and replacements, and landscaping improvements.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Parks Improvements | Parks & Recreation | $334,203 | $4,269,935 | $4,604,138 | Adjustments to reflect revised project funding. | 3 |

**Project:**
Valley View Park - Heske Garden Lighting Replacement

**Scope of Work:**
Repair, upgrade, enhance the  functionality and durability of the lighting and electrical systems in Heske Garden.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Parks Improvements | Parks & Recreation | $492,000 | ($23,738) | $468,262 | Adjustments to reflect revised project funding. | 3 |

# CAPITAL IMPROVEMENTS PROGRAM (CIP)
## Amendments
## City Council Meeting - November 17, 2025

**Project:**
New Skate Park

**Scope of Work:**
This is a bucket of funds for construction new parks.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Parks - New | Parks & Recreation | $377,924 | ($64,275) | $313,649 | Adjustments to reflect revised project funding. | 4 |

**Project:**
Amador Hotel Renovation

**Scope of Work:**
Renovate and  make the Amadar Hotel ADA compliance; in compliance with SHPO rules.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Public Facilities | Quality of Life | $3,833,930 | $977,404 | $4,811,333 | Adjustments to reflect revised project funding. | 4 |

# CAPITAL IMPROVEMENTS PROGRAM (CIP)
## Amendments
## City Council Meeting - November 17, 2025

**Project:**
Benavidez Center Kitchen Floor

**Scope of Work:**
Replacing the aging roof and floor, following hazardous material testing and abatement, with necessary structural repairs and reinstallation of affected equipment.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Public Facilities | Quality of Life | $125,252 | ($42,790) | $82,462 | Adjustments to reflect revised project funding. | 4 |

**Project:**
Munson Senior Center Renovations

**Scope of Work:**
The addition of a 4,150 square feet for a multi purpose room for senior activities, including exercise programs, lectures, dances, etc. at Munson Center.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Public Facilities | Quality of Life | $1,413,553 | ($752,278) | $661,275 | Adjustments to reflect revised project funding. | 4 |

# CAPITAL IMPROVEMENTS PROGRAM (CIP)
## Amendments
## City Council Meeting - November 17, 2025

**Project:**
Branigan Cultural Center Improvements

**Scope of Work:**
Renovation and imrpovement of the Branigan Cultural Center.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Public Facilities | Quality of Life | $1,064,040 | ($46,031) | $1,018,009 | Adjustments to reflect revised project funding. | 4 |

**Project:**
East Mesa Public Recreational Complex

**Scope of Work:**
Construct  2 Soccer fields, 2 baseball feilds, sandvolley ball courts, concession cuilding, parking lot improvments, landscaping aand other facilities .

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Public Facilities | Public Works | $3,213,557 | $433,125 | $3,646,682 | Adjustments to reflect revised project funding. | 4 |

# CAPITAL IMPROVEMENTS PROGRAM (CIP)
## Amendments
## City Council Meeting - November 17, 2025

**Project:**
GO Bond - ARPA

**Scope of Work:**
Construction of parking lot, shade structure,trails, site furnishings, signage, drinking fountains, landscape and irrigation.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Public Facilities | Public Works | $241,928 | ($241,928) | $0 | Adjustments to reflect revised project funding. | 4 |

**Project:**
GO Bond 2022- E. Mesa Recreation Complex

**Scope of Work:**
Construct parking lot, shade structure, site furnishings, signage, drinking fountains, landscape and irrigation.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Public Facilities | Public Works | $1,192,524 | ($51,677) | $1,140,847 | Adjustments to reflect revised project funding. | 4 |

# CAPITAL IMPROVEMENTS PROGRAM (CIP)
## Amendments
## City Council Meeting - November 17, 2025

**Project:**
GO Bond 2022- Parks Improvements

**Scope of Work:**
Construction of parking lot, shade structure,trails, site furnishings, signage, drinking fountains, landscape and irrigation.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Public Facilities | Public Works | $2,037,611 | ($2,829) | $2,034,781 | Adjustments to reflect revised project funding. | 4 |

**Project:**
Villa Mora Dam Park

**Scope of Work:**
Improvements to Villa Mora Dam area including but not limited to  trails, parking, and lighting.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Public Facilities | Parks & Recreation | $550,000 | ($250,000) | $300,000 | Adjustments to reflect revised project funding. | 4 |

# CAPITAL IMPROVEMENTS PROGRAM (CIP)
## Amendments
## City Council Meeting - November 17, 2025

**Project:**
Voluntary Assessment District Phase II

**Scope of Work:**
Construct  median landscaping and new irrigation system, rock surfacing, plant materials, pre-emergent treatment, and traffic control.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Public Facilities | Public Works | $1,422,510 | ($1,422,510) | $0 | Adjustments to reflect revised project funding. | 4 |

**Project:**
Parks Parking Lot Program

**Scope of Work:**
Construct improvements such as grading, paving, stormwater harvesting, drainage improvements, signage, lighting, accessibility improvements, landscaping, irrigation, etc.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Public Facilities | Parks & Recreation | $21,851 | ($21,851) | $0 | Adjustments to reflect revised project funding. | 5 |

# CAPITAL IMPROVEMENTS PROGRAM (CIP)
## Amendments
## City Council Meeting - November 17, 2025

**Project:**
Melendres Ave/Pittsburg - Hadley to Picacho

**Scope of Work:**
Full reconstruction of N Melendres St, from W Picacho Ave to W, Hadley Ave. and Pitttsburg Ave, from N Melendres to end.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Resiliency | Public Works | $0 | $814,357 | $814,357 | Adjustments to reflect revised project funding. | 6 |

**Project:**
Solar Photovoltaic/Storage Projects

**Scope of Work:**
Actions that advance clean energy practices that mitigate climate change.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Resiliency | Sustainability | $214,153 | ($43,496) | $170,657 | Adjustments to reflect revised project funding. | 6 |

# CAPITAL IMPROVEMENTS PROGRAM (CIP)
## Amendments
## City Council Meeting - November 17, 2025

**Project:**
East Mesa Roads and Drainage

**Scope of Work:**
Construction of 5280 feet road from Cortez Dr. from Porter Dr. to Dunn Dr. for an approximate length of 5,280 feet.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Streets Improvements | Public Works | $1,699,406 | $653,645 | $2,353,051 | Adjustments to reflect revised project funding. | 7 |

**Project:**
University Area Complete Streets

**Scope of Work:**
Construct an ADA complaint and potential universal design elements to create a walkable, bikeable, Complete street for all users of the University Corridor.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Streets Improvements | Public Works | $236,438 | $65,595 | $302,032 | Adjustments to reflect revised project funding. | 7 |

# CAPITAL IMPROVEMENTS PROGRAM (CIP)
## Amendments
## City Council Meeting - November 17, 2025

**Project:**
Campo Street Design and Reconstruction

**Scope of Work:**
Full design and reconstruction of Campo St. from Spruce Ave. to E. Lohman Ave. to include pavement replacement, curb & gutter, sidewalk, other facilities.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Streets Improvements | Public Works | $6,694,020 | ($23,452) | $6,670,567 | Adjustments to reflect revised project funding. | 7 |

**Project:**
Median Landscaping

**Scope of Work:**
Design and construction for median landscape improvements including coordinating in colloboration with NMDOT along the Lohman - Roadrunner parkway.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Street Improvements | Parks & Recreation | $1,078,003 | ($760,086) | $317,917 | Adjustments to reflect revised project funding. | 7 |

# CAPITAL IMPROVEMENTS PROGRAM (CIP)
## Amendments
## City Council Meeting - November 17, 2025

**Project:**
Street Lighting & Traffic Signal Maintenance Program

**Scope of Work:**
Sundry bucket of funds for fixing street lights and Traffic signal maintenance.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Streets Improvements | Public Works | $896,173 | $522 | $896,695 | Adjustments to reflect revised project funding. | 7 |

**Project:**
Casa Linda Acres Reconstruction

**Scope of Work:**
Reconstructing Avenida Blanco from near Valley Dr. to Calle del Encanto,Callle del Encanto between Avenida de Mesilla to Brown rd.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Streets Improvements | Public Works | $4,522,174 | ($463,520) | $4,058,653 | Adjustments to reflect revised project funding. | 7 |

# CAPITAL IMPROVEMENTS PROGRAM (CIP)
## Amendments
## City Council Meeting - November 17, 2025

**Project:**
E Lohman Ave & S Walnut St Traffic Signal MAP

**Scope of Work:**
Replacement of traffic signals, curb ramps and installation of medians at E Lohman Ave & S Walnut St Traffic intersection.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Streets Improvements | Public Works | $81,833 | $434,148 | $515,981 | Adjustments to reflect revised project funding. | 7 |

**Project:**
South Main St - Avenida de Mesilla to Boutz

**Scope of Work:**
Reconstruction of S. Main St. from Boutz Rd. to Avenida de Mesilla/Idaho which includes a road diet.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Streets Improvements | Public Works | $2,686,182 | $3,392,362 | $6,078,544 | Adjustments to reflect revised project funding. | 7 |

# CAPITAL IMPROVEMENTS PROGRAM (CIP)
## Amendments
## City Council Meeting - November 17, 2025

**Project:**
Telshor Spruce Intersection Improvements

**Scope of Work:**
Plan and construct phased improvements at Telshor/Spruce Intersection including ADA ramps, adding bike facilities, curb and gutter, traffic signals.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Streets Improvements | Public Works | $1,019,067 | ($444,559) | $574,507 | Adjustments to reflect revised project funding. | 7 |

**Project:**
Pavement Condition Index Improvements

**Scope of Work:**
Pavement replacement, curb & gutter, sidewalk, storm drainage, street lights, signage, striping and utilities.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Streets Improvements | Public Works | $4,631,847 | $581,172 | $5,213,019 | Adjustments to reflect revised project funding. | 7 |

# CAPITAL IMPROVEMENTS PROGRAM (CIP)
## Amendments
## City Council Meeting - November 17, 2025

**Project:**
Pavement Marking Program

**Scope of Work:**
Maintenance of various citywide Pavement Markings and striping.

**Amendment:**

| Category | Department | Current Balance | Change | Ending Balance | Remarks | CIP Page |
|---|---|---|---|---|---|---|
| Streets Improvements | Public Works | $169,000 | $53,500 | $222,500 | Adjustments to reflect revised project funding. | 7 |

26-067

**Type of Action:**
☒ **Resolution**
☐ **Ordinance**
☐ **TIDD Resolution**

# City Council Action and Executive Summary

| | | | |
|---|---|---|---|
| **District:** | ☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☒ N/A | | |
| **1st Reading:** | | **Adopted:** | November 17, 2025 |
| **Drafter:** | Brad Douglas | **Department:** | Legal |

**Title:** **A RESOLUTION ADOPTING A FEE SCHEDULE PURSUANT TO LAS CRUCES MUNICIPAL CODE, CHAPTER 7, SECTION 7-46. FEES AND PENALTIES.**

**TYPE OF ACTION:** ☒ **Administrative** ☐ **Legislative** ☐ **Quasi-Judicial**

## PURPOSE(S) OF ACTION:
To adopt a fee schedule pursuant to updates made to the Las Cruces Municipal Code, Chapter 7, as already adopted by Council.

## BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
On April 7, 2025, proposed revisions to Chapter 7 of the Las Cruces Municipal Code (LCMC) were taken before the City Council. The revisions were adopted by Council. Key revisions included revised care and maintenance requirements, modified spay/ neuter requirements, more comprehensive enforcement of the prohibition against animal fighting, and clarified reclamation requirements for the ASCMV. The ordinance contemplated that an updated fee schedule would be adopted by Council by resolution in the future.

## SUPPORT INFORMATION:
Exhibit "A" - Updated Animal Control Permitting Fees 11.7.25

## PLAN(S):
None

## COMMITTEE/BOARD REVIEW:
None

## DOES THIS AMEND THE BUDGET?:
☐ Yes
☒ No

## Does this action amend the Capital Improvement Plan (CIP)?
☐ Yes
☒ No

## OPTIONS / ALTERNATIVES:
1. Vote "Yes"; this will approve the fee schedule.

2. Vote "No"; this will not approve the fee schedule and further guidance is required.
3. Vote to "Amend"; this will require direction to staff.
4. Vote to "Table"; this will delay implementation of the fee schedule.

**REFERENCE INFORMATION:**

Ordinance No. 3091

# RESOLUTION 26-067

## A RESOLUTION ADOPTING A FEE SCHEDULE PURSUANT TO LAS CRUCES MUNICIPAL CODE, CHAPTER 7, SECTION 7-46. FEES AND PENALTIES.

The City Council is informed that:

**WHEREAS**, on April 7, 2025, proposed revisions to Chapter 7 of the Las Cruces Municipal Code (LCMC) were taken before the City Council; and

**WHEREAS**, key revisions included revised care and maintenance requirements, modified spay/ neuter requirements, more comprehensive enforcement of the prohibition against animal fighting, and clarified reclamation requirements for the ASCMV; and

**WHEREAS,** the ordinance contemplated that an updated fee schedule would be adopted by Council by resolution in the future.

**NOW, THEREFORE,** Be it Resolved by the Governing Body of the City of Las Cruces:

**(I)**

**THAT** the proposed updated fee schedule, as noted in Exhibit "A", is hereby approved and adopted by the Las Cruces City Council.

**(II)**

**THAT** City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

**DONE AND APPROVED this** day of

APPROVED

_____

ATTEST:

_____

**Moved by:**

**Seconded by:**

**AYES**

**NAYS**

**Exhibit "A"**

# City of Las Cruces Animal Control

## Permitting Fees

### Deceased Animal Disposal

| | |
|---|---|
| • Removal per service | $50.00 per animal |
| • Senior Discount-72 years or older | $30.00 per animal |

***There shall be a one-time application fee of $20 per site, in addition to all permit fees listed below.***

### Multi-Animal Site Permit

| | |
|---|---|
| • Residential Permit Fee | $50.00 annually/per site |
| • Commercial Permit Fee | $75.00 annually/per site |

### Special Animal Permits

| | |
|---|---|
| • Guard dog | $50.00 annually/per site |
| • Hen/Duck | $50.00 annually/per site |
| • Enclosed Feral Cat Colony | $75.00 annually/per site |
| • FFA/4H Projects (subject to ACO supervisor approval) | $50.00 annually/per site |
| • Pigeons | $30.00 annually/per site |
| • Breeding Permit | $100.00 annually/per site |
| • Intact Animal Permit | $150.00 annually/per site |
| • Litter Fee (maximum 2 litters per year) | $100.00 annually/per site |

### Dangerous/Potentially Dangerous Dog(s)

| | |
|---|---|
| • Dangerous Dog | $300.00 annually/per site |
| • Potentially Dangerous Dog | $250.00 annually/per site |

### Impoundment and detention

| | |
|---|---|
| • Transport Fee for Owner Relinquishment | $50.00 per animal |
| • Senior Discount-72 yrs or older | $30.00 per animal |

**3101; Council Bill 26-009**

# City Council Action and Executive Summary

**Type of Action:**
☐ **Resolution**
☒ **Ordinance**
☐ **TIDD Resolution**

| | | | |
|---|---|---|---|
| **District:** | ☐ 1 ☐ 2 ☐ 3 ☒ 4 ☐ 5 ☐ 6 ☐ N/A | | |
| **1st Reading:** | October 20, 2025 | **Adopted:** | November 17, 2025 |
| **Drafter:** | Elizabeth Teeters | **Department:** | Economic Development |

**Title:** **AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF CITY OF LAS CRUCES, NEW MEXICO TAXABLE INDUSTRIAL REVENUE BONDS (ENDURANCE TECHNOLOGIES USA INC. PROJECT) IN A MAXIMUM PRINICIPAL AMOUNT OF $17,600,000 IN ONE OR MORE SERIES TO PROVIDE FUNDS TO FINANCE THE ACQUISITION, CONSTRUCTION, RENOVATION AND EQUIPPING OF AN INDUSTRIAL REVENUE BOND PROJECT FOR USE BY ENDURANCE TECHNOLOGIES USA INC. OR ITS SUCCESSORS OR ASSIGNS; AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDENTURE, LEASE, BOND PURCHASE AGREEMENT, THE BONDS AND OTHER DOCUMENTS IN CONNECTION WITH THE ISSUANCE OF THE BONDS AND THE PROJECT; MAKING CERTAIN DETERMINATIONS AND FINDINGS RELATING TO THE BONDS AND THE PROJECT; RATIFYING CERTAIN ACTIONS TAKEN PREVIOUSLY; AND REPEALING ALL ACTIONS INCONSISTENT WITH THIS ORDINANCE.**

**TYPE OF ACTION:** ☐ **Administrative** ☒ **Legislative** ☐ **Quasi-Judicial**

## PURPOSE(S) OF ACTION:

Issue industrial revenue bond debt.

## BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

Pursuant to Sections 3-32-1 through 3-32-16, New Mexico Statutes Annotated, 1978 Compilation, as amended, the City of Las Cruces (the "City") is authorized to acquire industrial revenue projects to be located within the corporate limits of the City, to issue industrial revenue bonds and to use the proceeds of such bonds for the purpose of promoting agriculture and industry and developing trade or other economic activity to secure and maintain a balanced and stable economy in the City to promote public health, welfare, safety, convenience and prosperity.

Endurance Technologies USA Inc, (the "Developer") has requested that the City consider the issuance of an industrial revenue bonds for the purpose of providing funds to finance the acquisition, construction, renovation and equipping of a steel pipe processing, enhancement and manufacturing facility (the "Project").

On September 15, 2025, the City's City Council (the "Governing Body") indicated its intent to proceed with the issuance of bonds for the financing of the Project by adopting Resolution No. 26-041 (the "Inducement Resolution").

The Developer has presented to the Governing Body a proposal whereby the City would (a) issue its Taxable Industrial Revenue Bonds (Endurance Technologies USA Inc. Project) and (b) acquire certain supporting

property, equipment, buildings, improvements, and real property (collectively, the "Project Property") located within the corporate limits of the City, to be used by the Developer for its steel pipe processing, enhancement and manufacturing operation.

Under the Developer's proposal, the City would enter into an Indenture (the "Indenture") with the Purchaser, the Developer and a Depositary acceptable to the City and the Purchaser pursuant to which, together with this ordinance (the "Bond Ordinance"), the City would issue the Bonds. Under the Developer's proposal the City and the Developer would enter into a Lease Agreement (the "Lease"), pursuant to which the Developer will lease the Project Property from the City and the Developer will make payments sufficient to pay the principal of, and interest on the Bonds and to pay all other obligations incurred pursuant to the provisions of the Lease and this Bond Ordinance. The City is authorized to enter into the Bond Documents and to issue the Bonds pursuant to the Act and this Bond Ordinance.

The Bonds, in an aggregate principal amount not to exceed $17,600,000 will be issued, sold and delivered to the City, in a private sale to an affiliate entity of the Company (the "Purchaser"), pursuant to a bond purchase agreement to be dated as of the initial date of delivery of the Bonds among the City, the Purchaser and the Developer (the "Bond Purchase Agreement"). The proceeds of the Bonds shall be applied to pay the costs of the Project and to pay certain costs associated with the transaction.

The Governing Body will be determining if it is in the best interest of the City to issue the Bonds and to execute and deliver the Bond Documents and other documents related.

**SUPPORT INFORMATION:**

Exhibit "A" - Lease Agreement
Exhibit "B" - Indenture
Exhibit "C" - BPA

**PLAN(S):**

City Council Strategic Plan, Department Strategic Business Plan, Elevate Las Cruces

**COMMITTEE/BOARD REVIEW:**

None

**DOES THIS AMEND THE BUDGET?:**

☐ Yes
☒ No

**Does this action amend the Capital Improvement Plan (CIP)?**

☐ Yes
☒ No

**OPTIONS / ALTERNATIVES:**

1. Vote "Yes"; this will approve the Ordinance authorizing the issuance of $17,600,000 tax-exempt industrial revenue bonds for Endurance Technologies USA, Inc.
2. Vote "No"; this will not approve the Ordinance authorizing the issuance of $17,600,000 tax-exempt industrial revenue bonds for Endurance Technologies USA, Inc.
3. Vote to "Amend"; this could delay the issuance of the bonds.
4. Vote to "Table"; this could delay the issuance of the bonds with a potential adverse effect on Endurance Technologies USA, Inc. locating in Las Cruces.

**ORDINANCE 3101; COUNCIL BILL 26-009**

**AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF CITY OF LAS CRUCES, NEW MEXICO TAXABLE INDUSTRIAL REVENUE BONDS (ENDURANCE TECHNOLOGIES USA INC. PROJECT) IN A MAXIMUM PRINICIPAL AMOUNT OF $17,600,000 IN ONE OR MORE SERIES TO PROVIDE FUNDS TO FINANCE THE ACQUISITION, CONSTRUCTION, RENOVATION AND EQUIPPING OF AN INDUSTRIAL REVENUE BOND PROJECT FOR USE BY ENDURANCE TECHNOLOGIES USA INC. OR ITS SUCCESSORS OR ASSIGNS; AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDENTURE, LEASE, BOND PURCHASE AGREEMENT, THE BONDS AND OTHER DOCUMENTS IN CONNECTION WITH THE ISSUANCE OF THE BONDS AND THE PROJECT; MAKING CERTAIN DETERMINATIONS AND FINDINGS RELATING TO THE BONDS AND THE PROJECT; RATIFYING CERTAIN ACTIONS TAKEN PREVIOUSLY; AND REPEALING ALL ACTIONS INCONSISTENT WITH THIS ORDINANCE.**

The City Council is informed that:

**WHEREAS**, City of Las Cruces (the "City") is a legally and regularly created, established, organized and existing political subdivision of the State of New Mexico (the "State"); and

**WHEREAS**, pursuant to Sections 3-32-1 through 3-32-16, New Mexico Statutes Annotated, 1978 Compilation, as amended (the "Act"), the City is authorized to acquire industrial revenue projects to be located within the corporate limits of the City, to issue industrial revenue bonds and to use the proceeds of such bonds for the purpose of promoting agriculture and industry and developing trade or other economic activity to secure and maintain a balanced and stable economy in the City to promote public health, welfare, safety, convenience and prosperity; and

**WHEREAS**, Endurance Technologies USA Inc. (the "Developer") has requested that the City consider the issuance of a industrial revenue bonds for the purpose of providing funds to finance the acquisition, construction, renovation and equipping of a steel pipe processing, enhancement and manufacturing facility (the "Project"); and

**WHEREAS**, on September 15, 2025, the City's City Council (the "Governing Body") indicated its intent to proceed with the issuance of the Bonds (as defined below) for the financing of the Project by adopting Resolution No. 26-041(the "Inducement Resolution"); and

**WHEREAS**, the Developer has presented to the Governing Body a proposal whereby the City would (a) issue its Taxable Industrial Revenue Bonds (Endurance Technologies USA Inc. Project), Series 2025 (the "Bonds") and (b) acquire certain supporting property, equipment, buildings, improvements, and real property (collectively, the "Project Property"), located within the corporate limits of the City, to be used by the Developer for its steel pipe processing, enhancement and manufacturing operation; and

**WHEREAS**, under the Developer's proposal, the City would enter into an Indenture (the Indenture") with the Purchaser (as defined below), the Developer and a Depositary acceptable to the City and the Purchaser pursuant to which, together with this ordinance (the "Bond Ordinance"), the City would issue the Bonds; and

**WHEREAS**, under the Developer's proposal the City and the Developer would enter into a Lease Agreement (the "Lease"), pursuant to which the Developer will lease the Project Property from the City and the Developer will make payments sufficient to pay the principal of, and interest on the Bonds and to pay all other obligations incurred pursuant to the provisions of the Lease and this Bond Ordinance; and

**WHEREAS**, the City is authorized to enter into the Bond Documents (as defined below) and to issue the Bonds pursuant to the Act and this Bond Ordinance; and

**WHEREAS**, the Bonds, in a aggregate principal amount not to exceed $17,600,000 will be issued, sold and delivered by the City, in a private sale to an affiliate entity of the Company (the “Purchaser”), pursuant to a bond purchase agreement to be dated as of the initial date of delivery of the Bonds among the City, the Purchaser and the Developer (the “Bond Purchase Agreement”); and

**WHEREAS**, the proceeds of the Bonds shall be applied to pay the costs of the Project and to pay certain costs associated with the transaction; and

**WHEREAS**, the Governing Body has determined that it is in the best interest of the City to issue the Bonds and to execute and deliver the Bond Documents and other documents related thereto; and

**WHEREAS**, there have been filed with the City Clerk and presented to the Governing Body the forms of the following documents:

1.Lease
2.Indenture
3.Bond Purchase Agreement
4.Bonds

The Lease, Indenture, Bond Purchase Agreement and Bonds are collectively referred to in this Bond Ordinance as the “Bond Documents”; and

**WHEREAS**, the City is authorized to issue the Bonds under the Act and after having considered the Developer’s proposal, has concluded that it is desirable at this time to authorize the issuance of the Bonds to finance the Project and that the City’s issuance of the Bonds will constitute and be a valid public purpose; and

**WHEREAS**, this Governing Body has been advised by its bond counsel that the continuing disclosure provisions of Rule 15c2-12 promulgated by the Securities and Exchange Governing Body under the Securities Exchange Act of 1934 are not applicable to this transaction inasmuch as the Bonds are being sold in a private sale without participation of an underwriter; and

**WHEREAS**, the City has advised the Dona Ana County Board of County Commissioners and the County Assessor of Dona Ana County (the “County”) of the City’s intent to consider issuance of the Bonds in compliance with Section 3-32-6.1 NMSA 1978 at least thirty (30) days prior to final action upon this Bond Ordinance; and

**WHEREAS**, there has been published in the Las Cruces Sun News, a newspaper of general circulation in the City, public notice of the Governing Body’s intention to adopt this Bond Ordinance, which notice contained certain information concerning the ownership, purpose, location and size of the Project and the amount of the Bonds to be issued to finance the Project, which notice was published at least fourteen (14) days prior to final action upon this Bond Ordinance.

**NOW, THEREFORE,** Be it Ordained by the Governing Body of the City of Las Cruces:

Section 1.RATIFICATION. All actions not inconsistent with the provisions of this Bond Ordinance previously taken by the Governing Body and the officials of the City directed toward approval of the issuance and sale of the Bonds be approved and the same hereby are ratified, approved and confirmed.

Section 2.FINDINGS.

A.General. The Governing Body hereby declares that it has considered all relevant information presented to it relating to the Bonds and the Project and hereby finds and determines that the issuance of the Bonds pursuant to this Bond Ordinance to provide funds for the Project is necessary and advisable and in the interest of and will promote industry and trade and a sound and proper balance in the State between agriculture, commerce and industry.

B.The Governing Body finds that:

(1)The Bonds will be issued for the purpose of financing the Project.

(2)The aggregate maximum combined principal amount of obligations to be issued with respect to financing the Project is $17,600,000.

(3)The Developer of the Project Property is Endurance Technologies USA Inc.

(4)The Project Property is located within the corporate limits of the City.

Section 3.BOND - APPROVAL, AUTHORIZATION AND DETAIL.

A.Approval and Sale. The issuance of the Bonds in an aggregate principal amount not to exceed $17,600,000 and the use of the proceeds of the Bonds to finance the cost of the Project including payment of expenses related thereto are hereby approved and confirmed.

The sale of the Bonds at par and purchase price not to exceed $17,600,000 is approved.

B.Form and Terms. Subject to the limitations set forth in this Bond Ordinance, the Bonds shall (i) be in the form and denominations and shall be numbered and dated as set forth in the Indenture, (ii) be payable as to principal and interest and subject to optional and mandatory redemption and defeasance in the amounts, upon the conditions and at the times and prices set forth in the Indenture; and (iii) issued in an aggregate principal amount not to exceed $17,600,000, bearing interest at the rate and maturing on the date set forth in the Indenture.

C.Execution. The Bonds shall be signed by the Mayor or Mary Pro-Tem of the City.

D.Interest Rate. The interest rate on the Bonds shall be [4%] per annum.

Section 4.AUTHORIZATION OF OFFICERS; APPROVAL OF DOCUMENTS; ACTIONS TO BE TAKEN. The form, terms and provisions of the Bond Documents in the forms on deposit in the office of the City Clerk are in all respects approved, authorized and confirmed.

The Mayor or Mayor Pro-Tem of the City are authorized to execute and deliver in the name and on behalf of the City, and the City Clerk or Deputy City Clerk is hereby authorized to attest, as necessary, the Bond Documents with such changes therein as are not inconsistent with this Bond Ordinance.

The Mayor or Mayor Pro-Tem of the City is further authorized to execute, authenticate and deliver such certifications, instruments, documents, letters and other agreements, including security agreements and subordination agreements, and to do such other acts and things, either prior to or after the date of delivery of the Bonds, as are necessary or appropriate to consummate the transactions contemplated by the Bond Documents.

The officers of the City shall take such action as is necessary to effectuate the provisions of the Indenture and shall take such action as is necessary in conformity with the Act to finance the costs of the Project and for carrying out other transactions as contemplated by this Bond Ordinance and the Bond Documents, including, without limitation, the execution and delivery of any closing documents to be delivered in connection with the sale and delivery of the Bonds.

Section 5.DELIVERY OF BONDS. Upon the execution of the Bond Documents, the satisfaction of the conditions set forth in the Bond Documents, the Bonds shall be executed, authenticated and delivered to the Purchaser. No Bond shall be valid for any purpose until such Bond has been properly authenticated as set forth in the corresponding Indenture.

Section 6.FUNDS AND ACCOUNTS. There is established in the Indenture, and on and after the date on which the Bonds are issued there shall be maintained, the funds and accounts as set forth in the Indenture. Other funds and accounts may be established as are necessary under the Indenture.

Section 7.FINDINGS REGARDING PAYMENT OF PRINCIPAL AND OTHER MATTERS. The following determinations are made:

A.The Bonds will be outstanding for a maximum of twenty (20) years from the date of the issuance. No principal will be due for the 1st year through the 19th year that the Bonds are outstanding. Assuming issuance of the Bonds on December 1, 2025 in the maximum principal amount of $17,600,000 bearing interest at an annual rate of four percent (4%), interest payments will be due in the amount of $704,000 from the first year through the nineteenth year that the Bonds are outstanding and the full principal amount of the Bonds plus

interest thereon shall be due on the final maturity date occurring on the twentieth anniversary date of issuance in the amount of $18,304,000

B.The Bonds may be redeemed in whole or in part at any time without premium.

C.It shall not be necessary to deposit any amount in a debt service reserve fund or a repair and replacement reserve fund for the maintenance of the Project Property.

D.The Lease requires that the Developer maintain the Project Property in good repair and condition (excepting reasonable wear and tear) and carry proper insurance with respect to the Project Property.

E.The Lease require the Developer to make lease payments in an amount sufficient to pay the principal of and interest on the Bonds as principal and interest become due and to make all payments of or relating to the Project Property corresponding to the Bonds as they become due.

Section 8.LIMITED OBLIGATIONS. The Bonds shall be a special limited obligation of the City, payable solely from the Basic Rent (as defined in the Lease) derived from the Lease, and payable by the Developer as described in the Indenture and any other property or interest of the City specifically pledged under the Indenture and shall never constitute a debt or indebtedness of the City or the State or any political subdivision thereof within the meaning of any provision or limitation of the State Constitution or statutes, and shall not constitute or give rise to a pecuniary liability of the City or a charge against its general credit or taxing power. Nothing contained in this Bond Ordinance or in the Bond Documents or any other instrument shall be construed as obligating the City (except with respect to the Project Property and the application of the revenues therefrom and the proceeds of the Bonds, all as provided in the Bond Documents), nor as incurring a pecuniary liability or a charge upon the general credit of the City or against its taxing powers, nor shall the breach of any agreement contained in this Bond Ordinance, the Bond Documents, the Bonds or any other instrument be construed as obligating the City (except with respect to the Project Property and the application of the revenues therefrom and the proceeds of the Bonds, all as provided in the Bond Documents), nor as incurring a pecuniary liability or a charge upon the general credit of the City or against its taxing power, the City having no power to pay out of its general funds, or otherwise contribute any part of the costs of constructing or equipping the Project Property, nor power to operate the Project Property as a business or in any manner except as lessor of the Project Property pursuant to the Act.

Section 9.APPROVAL OF INDEMNIFICATION. The Governing Body specifically approves the provisions of the Lease relating to indemnification which provide that the Developer shall indemnify and hold harmless the City and its Governing Body, officials, members, officers, employees and agents against liability to the Developer, or to any third parties that may be asserted against the City or its Governing Body, officials, members, officers, employees or agents with respect to the City's ownership of the Project Property or the issuance of the Bonds and arising from the condition of the Project Property or the acquisition, construction and operation of the Project Property by the Developer, except to the extent Section 56-7-1 New Mexico Statutes Annotated, 1978 Compilation, applies.

Section 10.BOND ORDINANCE IRREPEALABLE. After the Bonds are issued, this Bond Ordinance shall be and remain irrepealable until the Bonds, including interest, is fully paid, canceled and discharged or there has been defeasance of the Bonds in accordance with the Indenture.

Section 11.REPEALER. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent with this Bond Ordinance are repealed by this Bond Ordinance but only to the extent of that inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, previously repealed.

Section 12.SEVERABILITY. If any section, paragraph, clause or provision of this Bond Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of that section, paragraph, clause or provision shall not affect any of the remaining provisions of this Bond Ordinance.

Section 13.RECORDING; AUTHENTICATION; EFFECTIVE DATE; PUBLICATION. This Bond Ordinance, immediately upon its final passage and approval, shall be authenticated by the signature of the Mayor of the City, and by the signature of the City Clerk or any Deputy City Clerk, and shall be recorded in the Ordinance book of the City, kept for that purpose, and shall be in full force and effect thereafter in accordance

with the laws of the State, and notice of adoption thereof shall be published once in a newspaper which maintains an office in, and is of general circulation in the City.

Section 14.GENERAL SUMMARY FOR PUBLICATION. Pursuant to the general laws of the State, the title and a general summary of the subject matter contained in this Bond Ordinance shall be published in substantially the following form:

(Form of Summary of Ordinance for Publication)

City of Las Cruces, New Mexico
Notice of Adoption of Ordinance

Notice is hereby given of the title and of a general summary of the subject matter contained in Ordinance No. 3101, duly adopted and approved by the City Council of the City of Las Cruces, New Mexico, on November 17, 2025. A complete copy of the Ordinance is available for public inspection during the normal and regular business hours of the City Clerk, at City Hall, 700 N. Main Street, Las Cruces, New Mexico 88001 . The title of the Ordinance is:

CITY OF LAS CRUCES, NEW MEXICO
ORDINANCE NO. 3101

AUTHORIZING THE ISSUANCE AND SALE OF CITY OF LAS CRUCES, NEW MEXICO TAXABLE INDUSTRIAL REVENUE BONDS (ENDURANCE TECHNOLOGIES USA INC. PROJECT) IN A MAXIMUM PRINCIPAL AMOUNT OF $17,600,000 IN ONE OR MORE SERIES TO PROVIDE FUNDS TO FINANCE THE ACQUISITION, CONSTRUCTION, RENOVATION AND EQUIPPING OF AN INDUSTRIAL REVENUE BOND PROJECT FOR USE BY ENDURANCE TECHNOLOGIES USA INC. OR ITS SUCCESSORS OR ASSIGNS; AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDENTURE, LEASE, BOND PURCHASE AGREEMENT, THE BONDS AND OTHER DOCUMENTS IN CONNECTION WITH THE ISSUANCE OF THE BONDS AND THE PROJECT; MAKING CERTAIN DETERMINATIONS AND FINDINGS RELATING TO THE BONDS AND THE PROJECT; RATIFYING CERTAIN ACTIONS TAKEN PREVIOUSLY; AND REPEALING ALL ACTIONS INCONSISTENT WITH THIS ORDINANCE.

A general summary of the subject matter of the Ordinance is contained in its title. This notice constitutes compliance with Section 6-14-6, NMSA 1978.

(End of Form of Summary for Publication)

**(II)**

**THAT** City staff is authorized to do all deeds as necessary in the accomplishment of the herein above.

**DONE AND APPROVED this** day of

APPROVED

_____

ATTEST:

_____

**Moved by:**

**Seconded by:**

**AYES**

**NAYS**

Exhibit “A”

CITY OF LAS CRUCES, NEW MEXICO

and

ENDURANCE TECHNOLOGIES USA INC.

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# LEASE AGREEMENT

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Dated as of December____, 2025

Up to $17,600,000
City of Las Cruces, New Mexico
Taxable Industrial Revenue Bond
(Endurance Technologies USA Inc. Project)
Series 2025

Exhibit "A"

CITY OF LAS CRUCES, NEW MEXICO, a political subdivision of the State of New Mexico (together with its successors and assigns, the "Issuer"), as lessor, and ENDURANCE TECHNOLOGIES USA INC., a Delaware corporation that is qualified to transact business in New Mexico (together with its successors and assigns, the "Company"), as lessee, agree:

## ARTICLE I
## RECITALS

**Section 1.1. Recitals**

A. The Company has requested that the Issuer issue its Taxable Industrial Revenue Bond (Endurance Technologies USA Inc. Project), Series 2025 (the "Bond") in the maximum principal amount of up to $17,600,000. The proceeds of the Bond will be used to finance the Project (defined below).

B. The Issuer is authorized under Section 3-32-1 to 3-32-16, New Mexico Statutes Annotated, 1978 Compilation (the "Act") to acquire certain projects and issue its industrial revenue bond in payment therefor and has determined that it is desirable to acquire the Project pursuant to Ordinance No. -_____ (the "Bond Ordinance") and has in the Bond Ordinance authorized the issuance of the Bond.

C. The Bond is to be issued under the Indenture dated as of December____, 2025 (together with any and all amendments and supplements, the "Indenture") among the Issuer, _____ [Purchaser] (together with its successors and assignees, and transferees of the Bond, the "Purchaser"), the Company and BOKF, N.A. dba Bank of Albuquerque, as Depositary (the "Depositary"). The Bond will be a special limited obligation of the Issuer payable as therein provided and the Bond will not constitute a debt or pledge of the credit of the Issuer, and the Purchaser or owners of the Bond will have no right to have taxes levied by the Issuer or to require the Issuer to use any revenues for the payment of the Bond, except for Basic Rent (as defined in this Agreement).

D. The proceeds of the Bond will be used to finance the acquisition of Project Property (defined below) leased to the Company under the Lease Agreement (together with all amendments and supplements, this "Agreement").

E. The Company has conveyed the Project Site described in Exhibit A to the Issuer pursuant to a special warranty deed. Project Property, which includes the Project Site, is to be leased to the Company pursuant to this Agreement.

F. The Bond is to be purchased under the Bond Purchase Agreement dated as of December____, 2025 (together with any and all amendments and supplements, the "Bond Purchase Agreement"), among the Issuer, the Purchaser and the Company.

G. The Bond will be secured by the Indenture which constitutes, among other things, a collateral pledge of this Agreement.

In consideration of the premises and the mutual representations and agreements hereinafter contained, the Issuer and the Company agree as follows (provided that any obligation of the Issuer created by or arising out of this Agreement will never constitute a general debt of the Issuer or give rise to any pecuniary liability of the Issuer, but will be payable solely out of Revenues).

## ARTICLE II
## DEFINITIONS AND RULES OF CONSTRUCTION

**Section 2.1. Definitions**. All words and terms defined in the Indenture have the same meanings when used in this Agreement. In addition:

"Additional Payments" has the meaning assigned in Section 5.3(b).

"Applicable Environmental Law" means any applicable law, statute, ordinance, regulation, order or rule relating to or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or materials or concerning health or the environment, including, without limitation, CERCLA and RCRA, as each is amended and in effect from time to time.

"Bank" means [identify Lender]

"Basic Rent" has the meaning assigned in Section 5.3(a).

"CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.

"Construction Completion Date" has the meaning assigned in Section 4.4.

"Eminent Domain" means the taking of title to, or the temporary use of, all or any part of Project Property pursuant to eminent domain or condemnation proceedings, or by any settlement or compromise of such proceedings, or any voluntary conveyance of all or any part of Project Property during the pendency of, or as a result of a threat of, such proceedings.

"Event of Default" has the meaning assigned in Section 8.1.

"Facility" means a facility located in the City of Las Cruces, New Mexico, and its related supporting equipment and all improvements thereon to be used for the steel pipe processing, enhancement and manufacturing.

["Fee Mortgage" means the Deed of Trust (with statutory power of sale) Assignment of Rents and Security Agreement granted by the Company for the benefit of the Bank and creating its fee title to the Project Site and Project Property, to which the Issuer's interest is subject. ]

["Loan Agreement" means the Loan Agreement dated as of _____ among the Company and the Bank providing for, among other things, the financing of a portion of the Project.]

"Hazardous Material" means (i) "hazardous materials," "hazardous substances," "hazardous wastes" as defined in the Environmental Laws and (ii) any other material regulated under the Environmental Laws.

"Indemnitee" has the meaning assigned in Article VI.

"Permitted Encumbrances" means, as of any particular time, (i) liens for ad valorem taxes and special assessments not then delinquent or permitted to exist as provided in this Agreement, (ii) this Agreement, the Indenture and the security interests created in this Agreement and in the Indenture, (iii) utility, access or other easements and rights-of-way, restrictions, reservations, reversions and exceptions in the nature of easements that the Company certifies will not materially interfere with or impair the operations being conducted at the Project, (iv) unfiled and inchoate mechanics' and materialmen's liens for construction work in progress, (v) architects', contractors', subcontractors', mechanics', materialmen's, suppliers', laborers' and vendors' liens or other similar liens not then payable, (vi) such minor defects, irregularities, encumbrances, easements, rights-of-way and clouds on title as the Company certifies do not, in the aggregate, materially impair the property affected for the purpose for which it was acquired, (vii) liens created in connection with the Loan Agreement entered into by the Company and the Bank, including the Fee Mortgage and (viii) such other lien as may be hereafter permitted under this Agreement.

"PILOT" has the meaning assigned in Section 6.5 hereof.

"Proceeds," when used with respect to any insurance proceeds or any award resulting from, or other amount received in connection with, Eminent Domain, means the gross proceeds from the insurance or such award or other amount.

"Project" means the acquisition of the Project Site and the acquisition, construction and equipping of a of a steel pipe processing, enhancement and manufacturing facility (including Project Property) made with the proceeds of the Bonds from time to time for use by the Company.

"Project Site" means the real property located within City of Las Cruces, New Mexico described in Exhibit A.

"RCRA" means the Resource Conservation and Recovery Act of 1976.

"Related Costs" means expenditures incurred or to be incurred with respect to the Project, including, without limitation, the acquisition, installation and construction of Project Property.

"Rent" means Basic Rent and any Additional Payments under this Agreement.

"Project Property" means the Project Site and all improvements made thereto and suitable for use and used thereon, including all equipment and other personal property of any kind whether now owned or hereafter acquired with the proceeds of the Bond prior to the Completion Date which, in each case and for so long as the Loan Agreement is outstanding, are pledged as collateral to secure the performance of the Company's obligations under the Loan Agreement and the Bond.

"State" means the state of New Mexico.

"Taxable Property Project Value" is the taxable value of the relevant Project Property calculated as provided in the New Mexico Property Tax Code, Sections 7-35-1 through 7-38-93 NMSA, as amended.

"Term" means the duration of the leasehold estate created by this Agreement pursuant to Section 5.1 hereof.

"TRD" means the New Mexico Taxation and Revenue Department.

**Section 2.2. Rules of Construction**.

(a) The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

(b) All references in this Agreement to particular articles, sections or exhibits are references to articles or sections of or exhibits to this Agreement unless some other reference is established.

(c) Any inconsistency between the provisions of this Agreement and the provisions of the Indenture will be resolved in favor of the provisions of this Agreement.

## ARTICLE III
## REPRESENTATIONS

**Section 3.1. Issuer Representations**. The Issuer represents that, as of the date of delivery of this Agreement:

(a) The Issuer is a legally and regularly created, established, organized and existing municipal corporation under the general laws of the State of New Mexico and is operating as a home rule city pursuant to Article X, Section 6 of the Constitution of the State and the Charter of the Issuer.

(b) The Issuer has duly adopted the Bond Ordinance at a meeting duly called and held by the affirmative vote of not less than a majority of its members, authorizing the execution, delivery and performance of the Bond Documents, the Bond and the issuance of the Bond, all for the purpose of financing the Project including the acquisition, construction and equipping of Project Property and paying certain costs related to the issuance of the Bond.

(c) Insofar as is known to the Issuer, without independent investigation, the execution, delivery and performance by the Issuer of the Bond Documents will not conflict with or create a material breach of or material default under the Act or any other law, rule, regulation or ordinance applicable to the Issuer or any agreement or instrument to which the Issuer is a party or by which it is bound. Insofar as is known to the Issuer, without independent investigation, there

is no action, suit, proceeding, inquiry or investigation by or before any court pending against the Issuer, which seeks to or does restrain or enjoin the issuance or delivery of the Bond or the execution and delivery of any of the Bond Documents or in any manner questions the validity or enforceability of the Bond or any of the Bond Documents.

(d) Insofar as is known to the Issuer, without independent investigation, this Agreement and the Indenture constitute legal, valid and binding obligations of the Issuer, enforceable against the Issuer in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and general principles of equity and other applicable laws.

**Section 3.2. Company Representations**. The Company represents that, as of the date of delivery of this Agreement:

(a) The Company is a corporation duly incorporated and validly existing under the laws of Delaware, is in good standing under the laws of Delaware, is a duly registered foreign corporation authorized to do business in New Mexico, and has duly authorized the execution, delivery and performance of this Agreement and the Bond Purchase Agreement.

(b) The Company has full legal right, power and authority to carry out and consummate the transactions contemplated by this Agreement, the Indenture, and the Bond Purchase Agreement.

(c) The execution, delivery and performance by the Company of this Agreement and the Bond Purchase Agreement and the application by the Company of the proceeds of the issuance and sale of the Bond as provided in the Bond Documents do not and will not conflict with, contravene, violate or constitute a breach of or default under the articles of incorporation or bylaws of the Company or any material agreement to which the Company is a party or by which the Company or its properties or Project Property is bound or any law, rule, regulation, ordinance, order, consent, or decree, applicable to the Company, its properties or Project Property if such conflict, contravention, violation, breach or default could materially affect the ability of the Company to perform its obligations under the Bond Documents.

(d) This Agreement and the Bond Purchase Agreement constitute legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and general principles of equity.

(e) No Default or Event of Default, or event or condition which, with notice or lapse of time or both, would constitute a Default or an Event of Default, with respect to the Company has occurred and is continuing.

(f) There is no action, suit, proceeding, inquiry or investigation by or before any court, public board or body pending or, to the best of the knowledge of the Company, threatened against

the Company, which (i) seeks to or does restrain or enjoin the issuance or delivery of the Bond or the execution and delivery of any of the Bond Documents, (ii) questions the validity or enforceability of the Bond or any of the Bond Documents, (iii) questions the authority of the Company to own or operate any of Project Property, or (iv) if adversely determined, would have a material adverse effect on Project Property or the Company's ability to perform its obligations under the Bond Documents.

(g) All necessary authorizations, approvals, consents and other orders of any governmental authority or agency for the execution and delivery by the Company of this Agreement and the Bond Purchase Agreement have been obtained and are in full force and effect.

(h) The Company acknowledges that the Issuer has made no warranty or representation, express or implied, that the amount in the Acquisition Fund, as defined in Section 701 of the Indenture, will be sufficient to pay the Related Costs or that Project Property will be suitable for the Company's needs.

(i) No litigation at law or in equity nor any proceeding before any governmental agency or other tribunal involving the Company is pending or, to the knowledge of the Company, threatened, in which any liability of the Company is not adequately covered by insurance or in which any judgment or order would materially and adversely affect the Project, the validity of this Agreement or the Bond Purchase Agreement, or the performance of the Company's obligations thereunder or the transactions contemplated thereby.

(j) The Company will not use or operate the Project, or permit the Project to be used or operated, in any way which would adversely affect the qualification of the Project as a "project" under the Act.

(k) The acquisition, construction and installation of Project Property by the Company and the operation thereof will comply with all applicable material zoning, planning, building, environmental and other laws and regulations of the governmental authorities having jurisdiction over the Facility, and all permits, licenses, consents and permissions necessary for the Facility have been or will be obtained in due course.

(l) Project Property is located within the corporate limits of the City of Las Cruces, New Mexico.

(m) The Company has the economic ability to meet all of the financial obligations imposed upon the Company under this Lease.

(n) The Company intends to operate or to cause the Project Property to be operated for commercial purposes until at least the later of (i) the payment in full of the principal of and interest on the Bond, or (ii) the sooner termination of this Lease as provided herein.

## ARTICLE IV
## THE PROJECT AND THE COMPANY

**Section 4.1. Acquisition, Equipping and Completion**. On or prior to the date of issuance and delivery of the Bond and execution of this Lease, the Company has conveyed or caused to be conveyed or has assigned or caused to be assigned to the Issuer, by bill of sale, document of assignment or such other appropriate transfer or conveyance document, fee title to any and all Project Property which may exist at that time. The Company will acquire, construct and install Project Property as agent for the Issuer under the Act and applicable TRD regulations. To the extent necessary, after all proceeds of the issuance of the Bond have been exhausted, the Company will finance the completion of the Facility with other funds. The Issuer makes no warranty that proceeds from the issuance and sale of the Bonds and the funds in the Acquisition Account are sufficient to pay the entire Related Costs. Project Property will at all times during the Term be located within the City of Las Cruces, New Mexico. The Issuer makes no warranty that the proceeds of the issuance and sale of the Bond will be sufficient to pay all the Related Costs. The Company will obtain at the necessary time all licenses and permits required for the occupancy and operation of Project Property.

**Section 4.2. Plans and Specifications; Changes**. The Company may make changes, supplements, amendments and additions, omissions or substitutions for components of Project Property without the approval of the Issuer or the Purchaser. Notwithstanding the foregoing, the Company will not make any changes, supplements, amendments, additions, omissions, or substitutions or otherwise change or operate Project Property or permit Project Property or the Facility to be operated so as to cause Project Property not to be a "project" within the meaning of the Act as in effect on the date of issuance of the Bond, and the Company will not take or omit to take any action which will result in the Bond proceeds being applied in violation of the Bond Documents.

**Section 4.3. No Warranty of Condition or Suitability by Issuer**. THE COMPONENTS OF PROJECT PROPERTY HAVE BEEN DESIGNATED AND SELECTED BY THE COMPANY. THE ISSUER HAS NOT MADE AN INSPECTION OF ANY PORTION OF PROJECT PROPERTY. THE ISSUER MAKES NO WARRANTY OR REPRESENTATION, EXPRESS, IMPLIED OR OTHERWISE, WITH RESPECT TO ANY PORTION OF PROJECT PROPERTY OR THE LOCATION, USE, DESCRIPTION, DESIGN, MERCHANTABILITY, FITNESS FOR USE FOR ANY PARTICULAR PURPOSE, CONDITION OR DURABILITY OF THE SAME, OR AS TO THE QUALITY OF THE MATERIAL OR WORKMANSHIP IN THE SAME. ALL RISKS INCIDENT TO PROJECT PROPERTY ARE TO BE BORNE BY THE COMPANY. THE ISSUER WILL HAVE NO LIABILITY WITH REGARD TO OR ARISING OUT OF ANY DEFECT OR DEFICIENCY OF ANY NATURE IN ANY PORTION OF PROJECT PROPERTY, WHETHER PATENT OR LATENT. THE PROVISIONS OF THIS SECTION 4.3 HAVE BEEN NEGOTIATED AND ARE INTENDED TO BE A COMPLETE EXCLUSION AND NEGATION OF ANY WARRANTIES OR REPRESENTATIONS BY THE ISSUER, EXPRESS OR IMPLIED, WITH RESPECT TO ANY PORTION OF PROJECT PROPERTY, WHETHER ARISING UNDER

THE UNIFORM COMMERCIAL CODE OR ANY OTHER LAW NOW OR HEREAFTER IN EFFECT.

**Section 4.4. Construction Completion Date**. [The Company may acquire Project Property at any time during the Term.] On the date on which the construction and all expansions of the Project are completed (the "Construction Completion Date"), the Company will deliver to the Issuer a certificate signed by an Authorized Company Representative stating that, except for specified amounts remaining in or to be deposited in the Acquisition Fund for any specified Related Costs incurred by the Company but not then due and payable, the acquisition of Project Property under the Project is complete and all costs of labor, services, materials and supplies in connection with Project Property have been paid for or provisions have been made for their payment. After the transfer of remaining moneys in the Acquisition Fund to the Company pursuant to Section 706 of the Indenture, the Company will have sole responsibility for the payment of any Related Costs in excess of the amount specified to be retained in the Acquisition Fund. Upon completion, Project Property will comply in all material respects with all building codes, and other laws, ordinances, rules and regulations applicable to Project Property or the Facility.

**Section 4.5. Gross Receipts and Compensating Tax**. The Company, either on its own behalf or as agent for the Issuer pursuant to Section 4.1 and this Section, will file returns for reporting and paying compensating tax which is due because of the Project and promptly will pay, as a Related Cost, any gross receipts or compensating tax due from the Issuer under any such returns. To the extent consistent with or required by State law, the Issuer will cooperate with the Company in the obtaining of Nontaxable Transaction Certificates from the TRD for delivery to suppliers with respect to Project Property as may be applicable under the New Mexico Gross Receipts and Compensating Tax Act. The Company shall take delivery of all Project Property as agent of the Issuer and may specify such agency relationship on all purchasing and delivery documentation corresponding to Project Property. It is the intention of the Issuer and the Company that the Company shall be deemed to be acting as agent for the Issuer with respect to all purchases of Project Property on the terms set forth herein, even if certain purchasing and delivery documentation (including, but not limited to receipts, invoices, and customs forms and corresponding documentation for purchases of foreign goods) may not expressly disclose or identify such agency relationship. The Company will pay any gross receipts or compensating tax plus applicable penalty and interest which is found by the TRD to be due from the Company or the Issuer because of the purchase or use of Project Property or any component of Project Property by the Company or the Issuer. The Company, at its sole expense, may request any rulings from the TRD which the Company determines might be necessary or desirable to clarify the New Mexico gross receipts and compensating tax results of transactions related to the Project and may dispute, at its sole expense, in any manner authorized by the New Mexico Tax Administration Act, any gross receipts or compensating tax liability imposed on the Company or the Issuer because of the Project. The Issuer will, at the sole expense of the Company, join in any reasonable modifications to this Agreement which are necessary or desirable to obtain Nontaxable Transaction Certificates or otherwise reduce the gross receipts and compensating tax imposed on the Company or the Issuer as a result of or in connection with the acquisition, construction and installation of Project Property and will otherwise cooperate with the Company to address any

reasonable request of the Company regarding issues raised by TRD with respect to Non-Taxable Transaction Certificates. The Company will employ Nontaxable Transaction Certificates solely to purchase Project Property and will not employ Nontaxable Transaction Certificates after the Construction Completion Date or for purchases in amounts greater than the proceeds principal amount of the bonds.

**Section 4.6. Compliance With Law**. The Company will obtain or cause to be obtained all necessary permits and approvals, for the occupancy, operation and maintenance of Project Property and Facility and will comply in all material respects with all Applicable Environmental Laws and all lawful requirements of any governmental body, agency or department regarding the use, condition or operation of Project Property. The Company may in good faith contest the validity or the applicability of any such requirement. During the period of such contest and any related appeal, this Section 4.6 will be deemed satisfied with respect to the requirement so contested.

To the extent that the use which the Company makes or intends to make of Project Property will result in the manufacturing, treatment, refining, transportation, generation, storage, disposal or other release or presence of any hazardous substance or solid waste on or to Project Property, such use will be in accordance with applicable law, including any applicable regulations. For purposes of this paragraph, the terms "hazardous substance" and "release" will have the meanings specified in CERCLA, and the term "disposal" (or "disposed") will have the meaning specified in RCRA; provided, in the event either CERCLA or RCRA is amended so as to broaden the meaning of any term defined thereby, such broader meaning will apply subsequent to the effective date of such amendment, and provided, further, to the extent that the laws of the State establish a meaning for "hazardous substance," "release," or "disposal" which is broader than that specified in either CERCLA or RCRA, such broader meaning will apply; provided, further, that the term "hazardous substance" will also include those listed in the U.S. Department of Transportation Table (49 C.F.R. 172.101) and amendments thereto from time to time.

The Company agrees to promptly notify the Purchaser and the Issuer of any violation of any Applicable Environmental Laws of which the Company becomes aware.

Company shall, at Company's sole cost and expense, remove or take remedial action with regard to any hazardous substance brought onto the Project Site by Company or its employees, agents or contractors for which any removal or remedial action is required pursuant to any Applicable Environmental Laws. Company shall indemnify, defend, protect and hold the Issuer and the Issuer's City Council, employees and agents free and harmless from any liability (including, without limitation, costs, reasonable attorneys and consulting fees, investigation and laboratory fees and litigation expenses based upon (a) a release of any hazardous substance in, on or under the Project Site caused by Company or its employees, agents, or contractors or (b) the violation by Company or its employees, agents or contractors of any Applicable Environmental Laws. The indemnity obligations stated in this Section are in addition to the other indemnity obligations of Company hereunder, and shall survive the termination of this Agreement.

**Section 4.7. Nuisance Not Permitted**. The Company will use reasonable care to not permit or suffer its agents, employees, invitees (including building contractors and subcontractors), guests or other visitors to commit a nuisance on or about the Facility or Project Site or itself commit a nuisance in connection with its use or occupancy of Project Property.

**Section 4.8. Taxes and Utility Charges**. The Company will pay or cause to be paid, as and when due, (i) all taxes, assessments, and governmental and other charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to Project Property, (ii) all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of Project Property and (iii) all assessments and charges lawfully made by any governmental body for public improvements that may be secured by any lien on Project Property. The Company may, in good faith, contest the amount or validity of any such levy, tax, assessment or other charge by appropriate legal proceedings. During the period of such contest and any related appeal, this Section 4.8 will be deemed satisfied with respect to any such levy, tax, assessment or other charge so contested.

**Section 4.9. Maintenance**. The Issuer will not be under any obligation to, and will not, operate, maintain or repair Project Property. The Company will, at its own expense, keep Project Property in safe repair and in such operating condition as is needed for its operations. The Company will not be under any obligation to renew, repair or replace any inadequate, obsolete, worn out, unsuitable, undesirable, inappropriate or unnecessary equipment.

**Section 4.10. Replacement and Removal of Project Property**. The Company may replace or remove and/or sell, trade in exchange or otherwise dispose of any machinery, equipment or fixtures constituting a part of Project Property, without any responsibility or accountability to the Issuer, and thereby acquire title to such machinery, equipment or fixtures, provided that such replacement or removal will not change the nature of the Project as a qualified "project" as defined in and as contemplated by the Act. Upon request and at the expense of the Company, the Issuer will deliver to the Company appropriate instruments evidencing the acquisition by the Company of title to any machinery, equipment or fixtures permitted by this Section 4.10 to be so replaced or removed. The provisions of Article X govern the delivery and form of any such instruments. The removal from the Project of any portion of the equipment, if any, pursuant to the provisions of this Section will not entitle the Company to any abatement or diminution in amount of the Basic Rent, Additional Payments, or PILOTs payable under this Agreement. The Company may acquire machinery, equipment or other property (other than fixtures) which does not constitute a part of Project Property and title to any such property will not thereby be transferred to the Issuer.

**Section 4.11. Eminent Domain; Damage; Destruction**. The Company will give prompt notice to the Issuer and the Purchaser of any material damage to or destruction of Project Property. If either the Issuer or the Company receives notice of the proposed taking of all or any part of Project Property by Eminent Domain, it will give prompt notice to the other and the Purchaser. Any such notice will describe generally the nature and extent of such damage, destruction, taking or proposed taking. Subject to the Fee Mortgage, the Proceeds resulting from the exercise of Eminent Domain with respect to or from any damage to or destruction of all or any portion of

Project Property shall at the option of the Purchaser, be applied to the prepayment of the Bond or paid to the Company. Subject to the Fee Mortgage, all proceeds of insurance resulting from claims for losses to the Project and all proceeds of any condemnation award will be paid to the Company.

If all or any significant portion of Project Property is destroyed by a fire, natural disaster and/or other event beyond the Company's control, the Issuer will assist the Company to the extent permitted by law to include any new equipment and/or building renovations required for the operation of the Project as part of Project Property, through, among other things, extending the Construction Completion Date and/or amending or supplementing Bond Documents to reflect the acquisition of such equipment.

**Section 4.12. Access and Inspection**. The Company authorizes the Issuer and the Purchaser and their duly authorized agents during regular business hours, upon two (2) days prior written notice, grants (i) such rights of access to Project Property as may be reasonably necessary to inspect the progress of the Project and (ii) the right of entry onto the Project Site for any purpose contemplated by this Agreement. Such rights of access and entry will not be terminated, curtailed or otherwise limited by any sale, assignment, lease or other transfer of Project Property by the Company to any other Person.

**Section 4.13. Liens/Encumbrances**. Subject to this Section 4.13, the Company will not allow any contractor, subcontractor, materialman or laborer with respect to the Project to remain unpaid, and will take all actions or cause to be taken all actions necessary to prevent liens by such parties being filed against the Project Property. Except for Permitted Liens, the Company will not suffer any liens to exist on the Project Property as a result of any claims brought against the Company pursuant to a right or interest not existing in connection with, or permitted by, this Lease. The Company will notify the Issuer and the Purchaser of the existence of any material lien, other than a Permitted Encumbrance, on Project Property within 60 days after such lien attaches. The Company may, in good faith, contest the validity of any lien on Project Property. During the period of such contest and any related appeal, this Section 4.13 will be deemed satisfied with respect the lien so contested.

**Section 4.14. Assessment in the Company's Name**. If this Agreement has not been terminated on or before December 1, 2045 the Company will take all necessary action to have Project Property assessed for property tax purposes in the name of the Company on or within 30 days before December 1, 2045, and the Company will pay all ad valorem taxes on Project Property from and after December 1, 2045. If Project Property must be conveyed to the Company to accomplish such assessment, this Agreement will thereafter be construed to be an installment sale agreement and all terms and provisions of this Agreement will remain in full force and effect. The provisions of Article X govern the manner and form of any such conveyance. Notwithstanding the foregoing, if the Company fails to take all necessary action to have Project Property assessed for property tax purposes in the name of the Company thirty (30) days before or on December 1, 2045, the Issuer may execute, deliver and cause to be recorded, at the expense of the Company, a quitclaim deed, assignment of easements and a bill of sale with respect to Project Property. In anticipation of the conveyance of Project Property by the Issuer to the Company, the Issuer may,

upon the request of the Company, deliver to an escrow agent agreed to by the Issuer and the Company appropriate documents, including, but not limited to, a quitclaim deed, an assignment of easements and other real property rights and a bill of sale, prepared by the Company at the Company's expense, conveying to the Company the Issuer's interest in Project Property; such documents to be delivered to the Company at the time of purchase of Project Property.

**Section 4.15. Use of Project Property**. The Company will use Project Property or cause Project Property to be used during the Term so as to constitute a "project" within the meaning of the Act as in effect on the date of issuance of the Bond. Temporary cessation of operations, or cessations of operations during holiday periods, for maintenance or retooling, for reasonable periods for the repair or replacement of facilities damaged or destroyed, resulting from labor disputes, strikes or because of short-term slack demand, riots or acts of God or the public enemy, shortages of materials or supplies or for any other reason beyond the reasonable control of the Company, or under similar circumstances will not constitute a failure by the Company to comply with this Section 4.15.

**Section 4.16. Existence**. Unless its successor or the transferee of its assets, as the case may be, assumes in writing all of the obligations of the Company under the Bond Documents, the Company will maintain its existence as a corporation and will not dispose of all or substantially all of its assets. The Company shall have the right to change its organizational structure if such a change is necessary to permit Company as restructured to remain eligible for any tax credit, benefit or incentive for alternative energy expenditure established by any local, state or federal government, provided such restructured organization assumes in writing all of the obligations of the Company under the Bond Documents. Original executed copies of such assumption will be delivered to each of the other Parties on or before the effective date of such succession or transfer. To the extent necessary under State law, the Company and its successors or transferees will become and remain authorized to transact business in the State and, if applicable, in good standing in the State.

**Section 4.17 Subleases; Granting and Release of Easements; Amending or Modifying Subleases and Easements.** The Company may at any time or times cause to be granted easements, licenses, rights-of-way (temporary or perpetual and including the dedication of public highways) and other rights or privileges in the nature of easements with respect to any property included in the Project and such grant will be free from the lien or security interests created by the Indenture or this Agreement, or the Company may cause to be amended, modified or released existing subleases, easements, licenses, rights-of-way and other rights or privileges in the nature of easements, held with respect to any property included in Project Property with or without consideration, and the Issuer agrees that it will, at the expense of the Company, execute and deliver any instrument necessary or appropriate to confirm and grant, amend, modify or release any such sublease, easement, license, right-of-way or other right or privilege upon receipt of: (i) a copy of the instrument of grant, amendment, modification or release, and (ii) a written application of the Company signed by an authorized representative of the Company requesting such instrument and stating (1) that such grant, amendment, modification or release is not detrimental to the proper conduct of the business of the Company, and (2) that such grant, amendment, modification or

release will not impair the effective use or materially interfere with the operation of Project Property; will not materially diminish or impair the security intended to be given by or under this Agreement or the Indenture and will not diminish or impair the obligations of the Company under this Agreement or the Indenture.

**Section 4.18 Insurance**. The Company will keep the Project Property continuously insured with respect to such risks and in such amounts, with such deductible provisions, as are customary in connection with the operation of facilities of the type and size comparable to the Plant. The Company shall furnish satisfactory certificates of insurance for all insurance from financially sound insurance companies licensed and authorized to do business in the State, and such certificates shall name the Company and the Issuer as loss payees for each casualty insurance policy, shall name the Company and the Issuer as additional or co insureds under each public liability insurance policy and shall include a provision requiring 30 days prior written notice to Issuer for cancellation, reduction or change in any coverage. Such insurance may, to the extent permitted under applicable law, be provided by blanket policies maintained by the Company, by a captive insurance company controlled by the Company or through self-insurance. Such insurance will include general liability insurance against liability for (i) claims for injuries to or death of any person or damage to or loss of property arising out of or in any way relating to the Project Property or the Plant, (ii) liability with respect to the Plant under the workers' compensation laws of the State (unless the Company has complied with the requirements of the laws of the State for self-insurance), and (iii) liability for bodily injury and property damage with respect to owned and leased automobiles or trucks, non owned automobiles or trucks and hired cars or trucks. To the extent not otherwise required by the Licensing Approvals, the Company shall maintain comprehensive general liability coverage of at least $1,000,000 per occurrence and pollution liability insurance coverage of at least $1,000,000 per occurrence, provided such coverages are available to the Company at commercially reasonable rates.

**Section 4.19. GASB 77 Reporting Information**. The Company shall provide, promptly upon the Issuer's request, annually or more frequently if the Issuer so requests, such information concerning (i) expenditures of Bond proceeds, (ii) the estimated value of the Project Property, (iii) estimates of the amounts and types of tax avoided by virtue of the issuance of all industrial revenue bonds by the Issuer for the benefit of the Company and any affiliates of the Company, and (iv) all other information reasonably requested by the Issuer for the purpose of the Issuer's annual disclosure of tax expenditures under GASB 77.

## ARTICLE V
## LEASE; TERM; POSSESSION; RENT

**Section 5.1. Lease of Project Property; Term**.

(a) This Agreement shall become effective upon its execution and delivery, and the leasehold estate created hereby and the Term shall then begin, and subject to the provisions of this Agreement, the Term shall expire on the earlier of (i) December 1, 2045 or (ii) on such date as the

payment or redemption and discharge of the whole amount of the principal and interest on the Bond at the time outstanding shall have been made as provided in the Indenture, or on such date as arrangements satisfactory to the Issuer and the Purchaser for such payment or redemption and discharge of the Bond shall have been made. The parties acknowledge that the Company may pay, discharge and redeem the Bond by offsetting amounts owed under the Bond to the Purchaser against monies owed to the Company by the Purchaser, including but not limited to monies advanced by the Company to the Purchaser in anticipation of making Bond advances under the Indenture.

(b) Upon the termination of this Agreement, all right, title and interest of the Issuer and the Purchaser under this Agreement shall thereupon cease, terminate and become void, the Bond shall cease to be entitled to any benefit under this Agreement, and all covenants, agreements and obligations of the Company to the Purchaser and the Issuer (except for the provisions pertaining to Issuer indemnification) shall thereupon cease, terminate and become void.

**Section 5.2. Quiet Enjoyment**. So long as no Event of Default has occurred and is continuing, the Issuer will not take any action, other than pursuant to Section 4.11 or Article VIII, to prevent the Company from having quiet and peaceable possession and enjoyment of Project Property during the Term (except as necessary with respect to Eminent Domain or condemnation for public projects and purposes) and will, at the request of the Company and at the Company's expense, including all expenses incident to any legal action, to the extent that the Issuer may lawfully do so, join in any legal action in which the Company asserts its right to such possession and enjoyment.

**Section 5.3. Basic Rent and Additional Payments**.

(a) The Company will pay to the Purchaser for the account of the Issuer such amounts at such times as are required to make all payments of principal of, interest on and redemption price of the Bond in accordance with the terms of the Bond and the Indenture as and when due (the "Basic Rent"), and the Company shall take all such actions relating to the withholding and reporting of interest as are required by the Internal Revenue Code of 1986, as amended. A copy of the anticipated payment schedule for the Bond is attached hereto as Schedule 5.3(a). The parties acknowledge that the Company may pay, discharge and redeem the Bond by offsetting amounts owed under the Bond to the Purchaser against monies owed to the Company by the Purchaser, including but not limited to monies advanced by or on behalf of the Company to or on behalf of the Purchaser in anticipation of making Bond advances under the Indenture.

(b) The Company will make the following payments (the "Additional Payments") to or on behalf of the Issuer up to $25,000 plus expenses and gross receipts taxes to cover costs and expenses incurred by the Issuer in connection with the discussion, review, negotiation, preparation, approval, execution and delivery of the Bond Documents).

**Section 5.4. Obligations Unconditional; Rights of Setoff**.

(a) The obligation of the Company to pay Rent and to perform its other obligations under this Agreement is absolute and unconditional and, except as otherwise provided in 5.4(b) below, will not be subject to diminution by setoff, counterclaim, abatement or otherwise, whether as a result of Eminent Domain with respect to, damage to or destruction of or removal of all or any portion of Project Property or any other event or condition. In the event the Issuer fails to perform its obligations under this Agreement, the Company may, subject to the limitations imposed by Section 11.3, institute such action against the Issuer as the Company may deem necessary to compel performance of those obligations of the Issuer set forth in Sections 4.5, 5.2, 7.1, 7.2, 7.4, and Article X. The Company may also, at its own cost and expense and in its own name or, if necessary, in the name of the Issuer prosecute or defend any action or proceeding or take any other action involving third parties which the Company deems reasonably necessary in order to secure or protect its title to or its right of possession, occupancy and use of Project Property. In such event, if no Event of Default has occurred and is continuing, the Issuer will cooperate with the Company, so long as it is not the adverse party, upon receipt of indemnity satisfactory to the Issuer against any out-of-pocket cost, expense (including reasonable counsel fees and expenses) or liability the Issuer may incur or suffer as a result of or in connection with such cooperation.

(b) Notwithstanding the above paragraph, it is the intention of this Agreement that the Company shall make Basic Rent payments to the Purchaser for the account of the Issuer, in such amounts and at such times as are required to make payments of principal of, interest on and redemption price of the Bond in accordance with the terms of the Bond Documents as and when due, and the parties acknowledge that all such Basic Rent payments may be offset by the Company against any monies due and payable to the Company from the Purchaser in connection with any funds advanced by or on behalf of the Company to or on behalf of the Purchaser in anticipation of any Advances to the Acquisition Account (as defined in the Indenture) as provided for under Section 702 of the Indenture. The Purchaser will look only to the Company for payment of the Bond and upon the security granted in the Indenture for the Company's obligations under this Agreement. As described in Section 7.1, the Issuer will assign and pledge to the Purchaser certain of its rights, title and interests in and to this Agreement including the right to receive payments of Basic Rent hereunder.

**Section 5.5. Net Lease**. This Agreement will be deemed and construed to be a "net lease," and the Company will pay Rent, absolutely net, and except as set forth in Section 5.4(b) hereof, free of any deductions and without abatement, diminution or setoff.

## ARTICLE VI
## SPECIAL COVENANTS

**Section 6.1. Recording and Filing; Further Assurances**. The Company will, at the expense of the Company, take all actions that at the time are and from time to time may be reasonably necessary to perfect, preserve, protect and secure the interests of the Issuer and the Purchaser in and to the Rent and in Project Property, including, without limitation, the recordation of this Agreement and the Indenture, the filing of financing statements and continuation statements and the execution, acknowledgment, delivery, filing and recordation of such other instruments as

may reasonably be required in carrying out the intention of or facilitating the performance of this Agreement.

**Section 6.2. Claims; Liens**. The Company will pay and discharge and will indemnify and hold harmless the Issuer from (a) any lien or charge upon payments by the Company to, or for the account of, the Issuer under this Agreement (other than the Indenture) and (b) any taxes, assessments, impositions and other charges in respect of Project Property. If any such lien or charge upon payments, or any such taxes, assessments, impositions or other charges, are sought to be imposed, the Issuer will give prompt notice to the Company of any such lien, taxes, assessments, impositions or other charges of which the Issuer has actual notice, and the Company will have the sole right and duty to assume the defense of the same and will have the power to litigate, compromise or settle the same.

**Section 6.3. Release and Indemnification**. The Company releases the Issuer, its City Council, officials, employees and agents (each an "Indemnitee") from, and will hold harmless from, indemnify and defend each Indemnitee against all liabilities, claims, costs and expenses imposed upon, incurred or asserted against any Indemnitee on account of: (a) any loss or damage to property or injury to or death of or loss by any person that may be occasioned by any cause whatsoever pertaining to the installation, maintenance, operation and use of Project Property; (b) the inaccuracy of any representation by the Company (regardless of whether the Company was aware of such inaccuracy at the time the representation was made) or any breach or default on the part of the Company in the performance of any representation, covenant or agreement of the Company under this Agreement, or any related document, or arising from any acts or failure to act by the Company, or any of its agents, contractors, servants, employees or licensees; (c) the Company's failure to comply with any requirements of this Agreement; (d) suits, legal or administrative proceedings, demands, losses, liabilities, damages, claims, causes of action, costs and expenses resulting from or in any way connected with the presence, release or disposal in or under the Project Site of, any hazardous substances (as defined in CERCLA), hazardous wastes (as defined in RCRA), oils, radioactive materials, asbestos in any form or condition, any pollutant or contaminant or hazardous, dangerous or toxic chemicals, materials or substances within the meaning of any Applicable Environmental Law; (e) any liability, whether under federal or state securities laws or otherwise, that may arise as a result of inaccurate information supplied by the Company in connection with the issuance of the Bond or any subsequent sale of the Bond; (f) any other loss, claim, damage, penalty, liability, disbursement, litigation expenses and attorneys' fees or court costs arising out of or in any way relating to the execution of performance of this Agreement, actions taken under the Indenture, the ownership or leasing of Project Property or any other cause whatsoever pertaining to Project Property, the Bond, the Bond Ordinance, or any action of the Issuer related to the issuance of the Bond; and (g) any claim, action or proceeding brought with respect to the matters set forth in clauses (a) through (f). The Issuer will not be liable to the Company, and the Company releases and discharges the Issuer from any liability for any and all losses, costs, expenses (including attorneys' fees), damages, judgments, claims and causes of action paid, incurred or sustained by the Company as a result of or relating to any action, or failure or refusal to act on the part of the Purchaser or the Depositary with respect to the Bond including without limitation the exercise by the Purchaser of any of its rights or this Section 6.3 which are

not intended in any way to detract from provisions of the Bond Documents to the effect that the Issuer is not to incur any pecuniary liability with respect to the transactions contemplated by the Bond Documents.

Notwithstanding the fact that it is the intention of the parties that the Issuer will not incur pecuniary liability by reason of this Agreement or the undertakings of the Issuer under this Agreement, by reason of the issuance of the Bond, the execution of the Bond Documents, the performance of any act required of it by the Bond Documents, the performance of any act related to the Bond Documents or the Bond requested of it by the Company or its position as owner or lessor of Project Property, nevertheless if the Issuer incurs any such pecuniary liability or the same is claimed or sought, then in such event the Company will indemnify and hold harmless the Issuer against all claims by or on behalf of any person arising out of the same and all costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon, and upon notice from the Issuer, the Company will defend the Issuer in any such action or proceeding.

In case any action or proceeding is brought against any Indemnitee in respect of which indemnity may be sought hereunder, such Indemnitee will give notice of the action or proceeding to the Company, and the Company, upon receipt of that notice, will have the obligation and the right to assume the defense of the action or proceeding; provided that failure of an Indemnitee to provide such notice will not relieve the Company from any of its obligations under this Section unless that failure prejudices the defense of the action or proceeding by the Company, in which case the liability of the Company under this Section shall be reduced only by an amount equal to the amount of the loss sustained by the Company solely as a result of such failure to notify. The Company will have no obligation to indemnify any Indemnitee with respect to any settlement entered into by such Indemnitee without the prior consent of the Company (which consent will not be unreasonably withheld).

The provisions of this Section will be enforceable by the Issuer to the full extent permitted by law, but will not include the gross negligence or willful misconduct of the Indemnitees. The provisions of this Section will survive the payment of the Bond and the termination of this Agreement.

**Section 6.4. Reserved**.

**Section 6.5. Payments in Lieu of Tax.** The Issuer and the Company acknowledge that during the Term, Project Property will be exempt from real and personal property taxation pursuant to Section 7-36-3 NMSA 1978. Notwithstanding the foregoing, the Company will pay to the Issuer for the benefit of the School District an annual payment in lieu of property tax ("PILOT") equal to the portion of the ad valorem taxes on the Project Property that would otherwise be due and payable to the School District if the Project Property was not owned by the Issuer. The PILOT will be calculated based on the actual mill levy rates imposed by the School District on each year business personal property and real property and the taxable value of the relevant Project Property calculated as provided in the Property Tax Code, Sections 7-35-1 through 7-38-93 NMSA 1978,

as amended from time to time. Such PILOT payments will be due annually on December 1st of each year during the Bond Term, with the initial PILOT installment due on December 1, 2026.

**Section 6.6. Facilities Closure Clawback.** If the Company ceases operations in the County within six years from the date of issuance of the Bond, the Company will repay to the Issuer the percentage shown below of the *ad valorem* taxes on real and personal Project Property that the Company would have been required to pay if the Bond had not been issued by the Issuer and Project Property had been subject to *ad valorem* taxation. The abated tax shall be calculated using mill levies and actual property tax valuations and rates for each tax year. Any PILOT payments previously made by the Company to the Issuer will be credited towards the payment of such amount; provided that in no event shall the Company be required to pay more than 100% of the abated tax.

| Elapsed Time from Issue Date of Bonds | Percentage of Abated Tax to be Repaid |
|---|---|
| Years 0-3 | 100% |
| Year 4 | 70% |
| Year 5 | 40% |
| Year 6 and thereafter | 0% |

Section 6.7 **Performance Clawbacks**. If the number of full-time equivalent employees ("FTE") is less than thirty six (36) on December 31, 2030 and each December 31 thereafter up to and including December 31, 2040 (each a "Job Target Date"), as, then the Company may be required to pay to the Issuer, no later than the end of the calendar year immediately following the calendar year in question, an amount not exceeding that percentage (shown below) (the "Applicable Percentage") of the *ad valorem* taxes on Project Property that the Company would have been required to pay with respect to the property tax year corresponding to the applicable date of the Company's failure to employ the projected FTE Employees if the Bond had not been issued by the Issuer and the Project Property had been subject to *ad valorem* taxation, calculated using mill levies and actual property tax valuations and rates for each such applicable tax year.

| Percentage of Actual vs. Projected FTE Employees | Maximum Percentage of Abated Tax to be Paid |
|---|---|
| Less than 65% | 100% |
| 65% or more but less than 80% | 20% |
| 80% or more but less than 90% | 10% |
| 90% or more | 0 |

For the purposes of determining compliance with this Section 6.7 above, the Company will provide to the Issuer such data and information on its workforce as is reasonably necessary for the Issuer or its independent contractor to determine whether the Company has met its job target obligations under this Section 6.7 of this Lease. Such reports will be due no later than 30 days after each Job Target Date.

**Section 6.8. Local Hiring**. The Company recognizes the reliance of the Issuer in issuing the Bond on representations of the Company, to the extent consistent with its business needs and the proper construction and operation of the Project, that the Company will attempt to hire qualified New Mexico residents for appropriate positions for the Project. The Company anticipates, but cannot guaranty, that a significant number of employees for the construction of the Facility and the installation of equipment and operation of the Project will be hired from the New Mexico area.

**Section 6.9 Insurance Provisions of the Act**. Pursuant to the provisions of the Section 3-32-7(E) of the Act, the Company will continue to offer to its employees and their dependents health insurance coverage that is in compliance with the New Mexico Insurance Code (Chapter 59A, except for Articles 30A and 42A NMSA 1978) or a comparable health benefits plan pursuant to the federal Employee Retirement Income Security Act of 1974, and shall contribute not less than fifty percent of the premium for the health care coverage for those employees who choose to enroll; provided that the fifty percent employer contribution shall not be a requirement for the dependent coverage that is offered.

## ARTICLE VII
## ASSIGNMENT, LEASING AND SELLING

**Section 7.1. Assignment of Rights by the Issuer**. Concurrently with issuance of the Bond, the Issuer will assign to the Purchaser certain of the Issuer's rights, title and interests in and to this Agreement, pursuant to the Indenture, as security for payment of the principal of, interest on and redemption price of the Bond. Thereafter, the Purchaser will be vested with, and authorized to exercise, such rights of the Issuer (other than the Unassigned Rights) and the Purchaser under this Agreement. The Company consents to such assignment.

**Section 7.2. No Other Transfer by Issuer**. Except for the assignment described in Section 7.1 and Article X hereof or transfer to the Company in accordance with Section 4.14 or 8.3, the Issuer will not sell, assign, transfer or convey its rights, title or interests in this Agreement or Project Property, or its obligations under this Agreement. Except for tax liens created or permitted by the Company, the Issuer will not cause or create any liens on Project Property or the Project Site and will defend Project Property, the Project Site and the Company from and against any claims of lien caused or created by the Issuer.

**Section 7.3. Assignment, Lease, Mortgage and Sale by the Company**. If the Company is not in default under this Agreement, the rights of the Company under this Agreement may be assigned, and, subject to the terms of the Loan Agreement, the rights of the Company in Project Property may be assigned, subleased, mortgaged or sold as a whole or in part by the Company in compliance with the requirements of this Section 7.3. The Company may, subject to

the terms of the Loan Agreement, without the consent of the Issuer, sublease, mortgage or sell Project Property and assign its rights under this Agreement, in whole or in part, provided that under any such assignment the Company remains liable for making payments of Rent and for the performance of its other obligations under this Agreement. Any assignment, sublease, mortgage or sale of Project Property which also purports to relieve the Company from liability for making payments of Rent and for the performance of its other obligations under this Agreement and its obligations for Project Property, will require the prior written approval of the Issuer (which shall not be unreasonably withheld) and the assumption in writing by any assignee, sublessee or purchaser of the obligations of the Company under this Agreement to the extent such liability is being assumed. Any mortgagee or assignee that does not directly hold an interest in Project Property or whose interest is held solely for security purposes shall have no obligation or liability under this Agreement prior to the time the mortgagee or assignee directly holds an interest in this Agreement or the mortgagee or assignee directly succeeds to absolute title to the Company's interest. [A mortgagee or the assignee shall be liable to perform obligations under this Agreement only for and during the period it directly holds such interest or absolute title; provided, however, that such liability shall not include any liability for claims of the Issuer against the Company arising from the Company's failure to perform during the period prior to such mortgagee's or assignee's succession to the Company's interest in and under this Agreement.] Notwithstanding any other provisions in this Agreement to the contrary, except as otherwise set forth in the immediately preceding sentence and Section 8.6(c), no mortgagee or assignee shall be liable for the performance or observance of any of the obligations or duties of the Company under this Agreement and the collateral assignment of this Agreement by the Company to any mortgagee or assignee shall not give rise to any duties or obligations whatsoever on the part of such mortgagee or assignee owing to the Issuer. In the event that any mortgagee or assignee is liable under this Agreement, liability in respect of any and all obligations of any such party under this Agreement shall be limited solely to such party's interest in the Project (and no officer, director, employee, shareholder or agent thereof shall have any liability with respect thereto).

On the effective date of any such assignment transaction pursuant to this Section 7.3, the Company will, at the request of the Issuer or the Purchaser and at the expense of the Company, deliver to the requesting Party an opinion of counsel to the Company and/or assignee to the effect that such assignment, lease, sublease, mortgage or sale has been duly authorized by the Company and/or assignee, does not conflict with applicable federal or State law, does not affect the status of the Project as a "project" under the Act, and is a valid, binding obligation of the assignee.

**Section 7.4. Bank Mortgages**. The Issuer and the Company expressly acknowledge the priority of the Bank's lien on Project Property under the Fee Mortgage over the interests of the Issuer and over the security interests granted to the Purchaser created under the Indenture as set forth in Section 303 of the Indenture.

The Company and the Issuer agree that so long as the Fee Mortgage is not discharged or reconveyed, or until written notice of discharge and reconveyance is given by the Bank to the Issuer, the following provisions will apply:

(a) The Issuer, upon providing the Company any notice of (i) default under this Agreement or (ii) a matter on which the Issuer may predicate or claim a default, will at the same time provide a copy of such notice to the Bank. The Issuer will have no liability for the failure to give any such notice, except that no such notice by the Issuer to Company will be deemed to have been duly given to the Bank unless and until a copy thereof has been so provided to the Bank. The Company will provide the Bank with copies of all notices delivered to the Issuer under this Agreement and the Indenture.

(b) Notices from the Issuer to the Bank will be mailed to the address furnished the Issuer and those from the Bank to the Issuer will be mailed to the address designated pursuant to the provisions of this Agreement. Such notices, demands and requests will be given in the manner described in this Agreement.

(c) The Issuer acknowledges that, in the event of damage to the improvements on the Project due to casualty or condemnation, the casualty insurance proceeds or condemnation proceeds, as the case may be, will be applied in accordance with the terms of the Fee Mortgage. In the event of any conflict between the provisions of this Agreement and the provisions of the Fee Mortgage with respect to application of casualty and condemnation proceeds, the provisions of the Fee Mortgage will control.

(d) Notwithstanding any provisions of this Agreement to the contrary, no default or event of default under the Loan Agreement or any other document or instrument evidencing or securing the indebtedness secured by the Fee Mortgage will, in and of itself, constitute a default or event of default under this Agreement.

(e) Issuer will not encumber Issuer's fee simple interest in Project Property or assign Issuer's interest in this Agreement, except as Issuer has previously done pursuant to the Indenture or as permitted under Section 7.2.

(f) Upon compliance with the provisions of Section 7.3 hereof, the Company, from time to time , will have (i) the right to assign its right, title, and interest in this Agreement and in the Project, (ii) the right to sublease all or any part of the Project, (iii) the right to mortgage or otherwise encumber its right title and interest in this Agreement and in the Project, and (iv) the right to use the Project for any lawful purpose provided that any such use does not cause the Project to cease being qualified as a "project" as defined in and as contemplated by the Act.

(g) In the event of the foreclosure upon the rights of the Company in this Agreement (or acceptance of a deed in lieu of foreclosure), if the interests of the Issuer hereunder are not foreclosed, this Agreement shall remain in full force and effect, and the purchaser at foreclosure shall succeed to all of the rights and obligations of the Company hereunder with the consent of the Issuer. In that event, the Issuer will execute and deliver any reasonable requested documents to confirm such succession and the rights and obligations of the succeeding party, at the sole expense of the succeeding party.

(h) Upon the Company's or the Bank's request, Issuer may agree to waive for the benefit of the Bank any landlord's lien that arises by virtue of the agreements of the Company under this Agreement or pursuant to NMSA 1978, §48-3-5 or similar or successor statutes, and enter into a commercially standard access agreement as to collateral on which the Bank has a lien to the extent the collateral secures the obligations of the Company under the Loan Agreement.

## ARTICLE VIII
## EVENTS OF DEFAULT AND REMEDIES

**Section 8.1. Events of Default Defined**. Each of the following events is an "Event of Default:"

(a) Failure by the Company to make any Rent payment, Additional Payments, or PILOT payments when due which continues unremedied for a period of 30 days after the provision by the Issuer, the School District or the Purchaser of written notice of non-payment.

(b) Any representation of the Company in any Bond Document or in any document or agreement delivered to any of the other Parties in connection with the transactions contemplated by any Bond Document proves to have been incorrect in any material respect when made and remains incorrect for a period of 30 days after written notice specifying such error and requesting that it be remedied is given by the Issuer unless such error cannot be remedied within 30 days and the Company has instituted corrective action within 30 days after such notice and diligently pursues such action until such failure is remedied.

(c) A decree or order for relief by a court of competent jurisdiction is entered in an involuntary case under any federal or state bankruptcy, insolvency or similar law, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official of the Company or for any substantial part of its property, or ordering the winding-up or liquidation of its affairs and the continuance of any such decree or order unstayed and in effect for a period of 60 consecutive days, or the commencement by the Company of a voluntary case under such law, or the consent by the Company either to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or other similar official) of the Company or for any substantial part of its property, or the making by it of any assignment for the benefit of creditors, or the taking of action by the Company to authorize or effect any of the foregoing. .

(d) Failure by the Company to perform any of its obligations under this Agreement, other than the payment of Rent, PILOT payments and Additional Payments for a period of 30 days after written notice, specifying such failure and requesting that it be remedied, is given to the Company by the Issuer or the Purchaser, unless such failure is of a type which cannot be reasonably remedied within 30 days and the Company has instituted corrective action within 30 days after such notice and diligently pursues such action until such failure is remedied.

**Section 8.2. Remedies on Default**. If an Event of Default occurs and is continuing, the Purchaser (or its assignee), as the assignee of the Issuer under the Indenture and on behalf of the Issuer, may, but is not required to, take any one or more of the following remedial steps:

(a) By written notice to the Company declare all amounts of Rent payable for the remainder of the Term as are required to provide for the Payment of the Bond to be immediately due and payable, whereupon the same will be immediately due and payable;

(b) Take whatever action at law or in equity may appear necessary or desirable to collect the Rent then due and thereafter to become due or to enforce the performance and observance of any obligation of the Company under this Agreement or the Indenture; or

(c) Exercise any remedies provided for in the Indenture; or

(d) Terminate this Agreement and transfer title to the Project to the Company for assessment in the name of the Company.

In the enforcement of the remedies provided in this Section 8.2, the Purchaser, as the assignee of the Issuer and on behalf of the Issuer, may treat all expenses of enforcement, including, without limitation, reasonable legal, accounting and advertising fees, as Additional Payments then due and owing. As the assignee of the Issuer, the Purchaser (or its assignee) has the sole right and responsibility for the exercise of any remedies if an Event of Default occurs and is continuing, and except for the exercise of Issuer's remedies under Sections 8.3 and 8.4 below, the Issuer shall not exercise any remedies provided under this Lease unless specifically authorized in writing by the Purchaser.

**Section 8.3. Issuer Remedies**. If:

(a) the Company fails to comply with its obligations set forth in Sections 4.4, 4.5, 4.6, 4.8, 4.12, 4.14, 4.15, 4.16, 4.17, 4.19, 5.3(b), 6.3, 6.5, 6.6, 6.7, 6.9, 8.5, or 11.17 and such failure continues for 60 days after the Issuer gives the Company written notice of such failure; or

(b) the Company fails to comply with its obligations under 5.3(a), such failure continues for 30 days after the Issuer or Purchaser or its assignee gives the Company written notice of such failure, and the Purchaser or its assignee exercises any of the remedies provided in Section 8.2 with respect to such failure; or

(c) any representation of the Company in any Bond Document or any document or agreement delivered to any of the other Parties in connection with the transactions contemplated by the Bond Documents proves to have been incorrect in any material respect when made; then, subject to Sections 7.4 and 8.6 hereof, the Issuer may immediately terminate this Agreement and reconvey Project Property to the Company. Provided however if any conditions described in paragraphs 8.3(a) (b) or (c) cannot be cured within the time allotted for cure, if the Company initiates and proceeds with due diligence to effect a cure, the Issuer shall not declare a default so long as the Company proceeds with due diligence to effect a cureand the Company cures the default.

**Section 8.4. Notice of Default**. The Company will promptly give notice to the Purchaser and Issuer, and the Bank, if applicable pursuant to Section 7.4, of the occurrence of any Event of Default or an event or condition (of which it has actual knowledge) which, with the passage of time or the giving of notice, or both, and in the absence of any corrective action, would result in an Event of Default.

**Section 8.5. Agreement to Pay Attorneys' Fees and Expenses**. If an Event of Default, or an event which with the giving of notice or the passage of time, or both, would constitute an Event of Default, occurs, and the Issuer incurs expenses, including attorneys' fees, in connection with the enforcement of this Agreement, the Company will reimburse the Issuer for the reasonable expenses so incurred, upon request.

**Section 8.6. Right to Cure Defaults.**

(a) To prevent termination of this Agreement, any mortgagee or assignee of the Company (including the Bank) that holds an interest in Project Property as security shall have a right, but not the obligation, at any time to perform any act necessary to cure any default and to prevent the termination of this Agreement. The Issuer will not terminate or suspend its performance under this Agreement until it first gives written notice of such default to any mortgagee or assignee and allows such mortgagee or assignee the right to cure such default within the applicable cure period under this Agreement. In addition, if such mortgagee or assignee gives the Issuer written notice prior to the expiration of the applicable cure period of such mortgagee's or assignee's intention to cure such default (which notice shall include a reasonable description of the time during which it anticipates to cure such default) and is diligently proceeding to cure such default, notwithstanding the applicable cure period under this Agreement, the mortgagee or assignee shall have a period of sixty (60) days (or if such default is for failure by the Company to pay an amount to the Issuer which is due and payable under this Agreement, thirty (30) days) from the mortgagee or assignee's receipt of the notice of such default from the Issuer to cure such default.

(b) If any default by the Company under this Agreement cannot be cured without obtaining possession of all or part of Project Property, then the Issuer shall not exercise its remedies under an Event of Default so long as a mortgagee or assignee (a) in the time period provided in Section 8.3(a) and 8.3(b) and 8.6(a) (including the aggregate cure period provided under Section 8.6(a)) begins appropriate judicial or non-judicial proceedings to obtain the same; (b) diligently prosecutes any such proceedings to completion; and (c) after gaining possession of all or part of Project Property, diligently proceeds to cure and perform all other obligations as and when the same are due in accordance with the terms of this Agreement. If a mortgagee or assignee is prohibited by any Court or by operation of any bankruptcy or insolvency laws from commencing or prosecuting the proceedings described above, the period specified above for commencing proceedings shall be extended for the period of such prohibition.

**(c)** If the mortgagee or assignee (or a receiver requested by a mortgagee) succeeds to the interest of the Company in Project Property, the mortgagee or assignee shall pay or cause to be paid the Rent, PILOT payments, Additional Payments and all other monetary

charges payable by the Company under this Agreement from the date in which the mortgagee or assignee (or a receiver requested by a mortgagee) succeeds to such interest and those which accrue thereafter during the term of this Agreement.

**Section 8.7. Discontinuance of Proceedings on Default; Position of Parties Restored**. In case the Issuer shall have proceeded to enforce any right under this Agreement and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Issuer, then and in every such case the Issuer and the Company will be restored to their former positions and rights under this Agreement with respect to Project Property and all rights, remedies, and powers of the Issuer will continue as if no such proceedings had been taken.

**Section 8.8. Proofs of Claim.** In the case of any insolvency, bankruptcy, reorganization, arrangement, adjustment, composition, or other judicial proceedings affecting the Company, the Issuer will, to the extent permitted by law, be entitled to file such proofs of claims and other documents as may be necessary or advisable in order to have claims of the Issuer allowed in such proceedings for the entire amount due and payable by the Company to the Issuer under this Agreement, as the case may be, at the date of the institution of such proceedings and for any additional amounts which may become due and payable after such date.

## ARTICLE IX
## PREPAYMENTS

The Company may at any time (including after the occurrence and during the continuance of an Event of Default) and for any reason cause all or any portion of the Bond to be redeemed in accordance with the provisions of the Indenture by giving notice of such redemption to the Issuer, the Purchaser and, if there are monies on deposit in the Acquisition Account (as defined in the Indenture), to the Depositary not less than seven (7) days before the redemption date. Such notice will specify the redemption date and the principal amount of the Bond to be redeemed. On the redemption date the Company will prepay the Rent in an amount equal to such principal amount plus accrued interest on such principal amount to the redemption date by payment of such amounts to the Purchaser, will pay all Additional Payments, plus interest, if any, owed to the Issuer and will pay all PILOT payments, if any, owed to the Issuer. The parties acknowledge that the Company may prepay, pay, discharge and redeem the Bond by offsetting amounts owed under the Bond to the Purchaser against monies owed to the Company by the Purchaser, including but not limited to monies advanced by the Company to the Purchaser in anticipation of making Bond advances under the Indenture.

## ARTICLE X
## PURCHASE OF PROJECT PROPERTY

The Company shall have, and is hereby granted, the option to terminate this Agreement and purchase Project Property for $1.00 at any time upon the payment in full of the Bond or provision

for its payment having been made and any unpaid Additional Payments and PILOT payments (including any PILOT payment payable in the year in which the term of this Lease ends). To exercise such option the Company will give written notice to the Issuer and to the Purchaser, if the Bond is then unpaid or provision for its payment has not been made, and will specify therein the date of termination and closing such purchase which date shall be the same date and which date will be not less than 15 nor more than 90 days from the date such notice is mailed. At the closing of such purchase, the Issuer will, upon receipt of the purchase price and other amounts due to the Issuer and/or School District by the Company, deliver to the Company or its nominee appropriate documents, including, but not limited to, a quitclaim deed, assignment of easements and other real property rights and a bill of sale, prepared by the Company at the Company's expense, conveying to the Company the Issuer's interest in Project Property, as it exists at the time of such purchase, subject only to: (i) those liens and encumbrances, if any, to which Project Property was subject when conveyed to the Issuer; (ii) those liens and encumbrances created by the Company and any party other than the Issuer or to the creation or suffering of which the Company consented; (iii) those liens and encumbrances resulting from the failure of the Company to perform any of its obligations under this Agreement; (iv) Permitted Encumbrances other than the Indenture and this Agreement; and (v) any other lien arising as a matter of law. The Company may exercise its rights under this Article X, whether or not a Default or an Event of Default has occurred and is continuing, so long as all Additional Payments and PILOT payments due to the Issuer are paid on or before the date of closing of such purchase.

If at the time of closing the Indenture has not been satisfied in full and released of record, a release by the Purchaser of the Indenture will also be delivered to the Company (or its designee).

The options granted to the Company in this Agreement are and will remain prior and superior to the Indenture.

## ARTICLE XI
## MISCELLANEOUS

**Section 11.1. Remedies**. No right or remedy conferred on any Party in this Agreement is intended to be exclusive of any other right or remedy conferred on such Party in this Agreement. Except as provided in Section 11.3, each such right or remedy is in addition to every other right or remedy provided in any of the Bond Documents or by law;. No delay or omission of any Party to exercise any such right or remedy will impair any such right or remedy or be construed to be a waiver. Every such right or remedy may be exercised from time to time and as often as the relevant Party may deem expedient. No waiver by any Party of any right or remedy with respect to any Default or Event of Default will extend to or affect any other existing or subsequent Default or Event of Default. In order for any Party to exercise any remedy reserved to it in the Bond Documents, such Party shall not be required to give any notice other than such notice as may be expressly required in the Bond Documents.

**Section 11.2. Beneficiaries**. Nothing in this Agreement expressed or implied is intended or is to be construed to confer upon any Person other than the Parties and their successors and

assigns (and, in the case of Section 6.3 of this Agreement, the Indemnitees and in the case of Section ___, the School District) any right, remedy or claim, legal or equitable.

**Section 11.3. Limitation of Issuer's Liability**. No agreements or provisions contained in the Bond Documents nor any agreement, covenant or undertaking by the Issuer contained in any document executed by the Issuer in connection with any property of the Company financed, directly or indirectly, out of Bond proceeds or the issuance, sale and delivery of the Bond will give rise to any pecuniary liability of the Issuer, its officials, employees, agents or members of its governing body or constitute a charge against the Issuer's general credit, or obligate the Issuer financially in any way, except with respect to the revenues available under this Agreement or under the Indenture provided by the Company and pledged to the payment of the Bond, and their application as provided under the Indenture. No failure of the Issuer to comply with any terms, covenants or agreements in this Agreement or in any document executed by the Issuer in connection with the Bond will subject the Issuer, its officials, employees, agents and members of its governing body to any pecuniary charge or liability except to the extent that the same can be paid or recovered from the revenues available under this Agreement or under the Indenture provided by the Company and pledged to the payment of the Bond. Nothing in this Agreement will preclude a proper party in interest from seeking and obtaining, to the extent permitted by law, specific performance against the Issuer for any failure to comply with any term, condition, covenant or agreement in this Agreement or in the Indenture; provided, that no costs, expenses or other monetary relief will be recoverable from the Issuer except as may be payable from the funds available under this Agreement or under the Indenture provided by the Company and pledged to the payment of the Bond.

Notwithstanding any other provisions of this Agreement, none of the provisions of this Agreement shall require the Issuer to expend or risk its own funds or to otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers hereunder unless it shall have first been adequately indemnified to its satisfaction against the cost, expense and liability which may be incurred thereby.

**Section 11.4. No Violation of Public Policies Regarding Indemnity**. To the extent, if at all, a court of competent jurisdiction determines that Section 56-7-1 NMSA 1978 applies to any indemnification provisions in this Agreement, including certain types of insurance coverage as set forth in Section 56-7-1 NMSA 1978, such provisions shall not apply to or extend to liability, claims, damages, losses or expenses, including attorney fees, arising out of bodily injury to persons or damage to property caused by or resulting from, in whole or in part, the negligence, act or omission of the indemnitee or additional insured, as the case may be, its officers, employees or agents and shall further be limited, if required, by the provisions of Section 56-7-2 NMSA 1978.

**Section 11.5. Notices**. Any notice, demand, direction, request, consent, approval, report or other instrument authorized or required by this Agreement to be executed, given or filed will be in writing and will be deemed to have been sufficiently given or filed for all purposes of this Agreement when delivered by hand delivery or by overnight courier or on the third business day following the day on which the same has been mailed by registered or certified mail, postage prepaid, addressed as follows:

If to the Issuer: City of Las Cruces, New Mexico

If to the Purchaser: Endurance Technologies USA Inc.

If to the Company: Endurance Technologies USA Inc.

If to the Bank: BOKF, N.A. dba Bank of Albuquerque

Any Party may, by notice to the other Parties, designate any further or different addresses to which subsequent notices, certificates or other communications are to be sent.

**Section 11.6. Severability**. In case any one or more of the provisions of this Agreement is for any reason held to be illegal or invalid, such illegality or invalidity will not affect any other provision of this Agreement, but this Agreement will be construed and enforced as if such illegal or invalid provision had not been contained therein. In case any covenant, stipulation, obligation or agreement of the Issuer or the Company contained in this Agreement is for any reason held to be in violation of law, then such covenant, stipulation, obligation or agreement will be deemed to be the covenant, stipulation, obligation or agreement of the Issuer or the Company to the full extent permitted by law.

**Section 11.7. Successors**. Wherever the Issuer is referred to in this Agreement, it will be deemed to include its successors and all covenants and agreements in this Agreement will bind and inure to the benefit of the Issuer's successors. Wherever the Company is referred to in this Agreement, it will be deemed to include its successors in interest to Project Property and all covenants and agreements in this Agreement will bind and inure to the benefit of such successors.

**Section 11.8. Title, Headings**. The title and headings of the articles, sections and subdivisions of this Agreement have been used for convenience only and do not modify or restrict any of the terms or provisions of this Agreement.

**Section 11.9. Execution in Counterparts**. This Agreement may be executed in multiple counterparts, all of which taken together will constitute one instrument.

**Section 11.10. Applicable Law**. The validity, construction and effect of this Agreement will be governed by the law of the State of New Mexico applicable to agreements made and to be performed in the State of New Mexico.

**Section 11.11. Obligations of Issuer Not Obligations of Officials Individually**. No obligation under any of the Bond Documents or the Bond will be deemed to be an obligation of

any present or future officer (including, without limitation, the City Councilors) or employee of the Issuer in his or her individual capacity, and no officer of the Issuer who executes the Bond will be personally liable on the Bond or be subject to any personal liability or accountability by reason of the issuance of the Bond.

**Section 11.12. Payments Due on Days That Are Not Business Days**. If the date for any payment due hereunder is not a Business Day, as defined in the Indenture, then such payment will be made on the next Business Day and no interest on such payment will accrue for such period.

**Section 11.13. Federal Income Tax Treatment of Lease**. The Issuer and the Company acknowledge that this Agreement constitutes a financing for federal income tax purposes and not a lease of Project Property, to the extent permitted by law. The Issuer and the Company further acknowledge that the Company shall, to the extent permitted by law, be entitled to all federal income tax attributes attributable to ownership of Project Property, including the right to claim depreciation or cost recovery deductions and the right to claim any federal tax credits (or federal grants in lieu thereof) arising from ownership of Project Property. Each of the Issuer and the Company agree not to file tax returns inconsistent with this Section 11.13.

**Section 11.15. Amendments**. This Agreement may be amended only by an instrument executed by the Issuer and the Company and consented to by the Purchaser and, for so long as any obligations are outstanding under the Loan Agreement, the Bank.

**Section 11.16. Further Assurances and Corrective Instruments**. The Issuer agrees that it will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements and amendments to this Agreement and such further instruments as may reasonably be required for carrying out the intention or facilitating the performance of this Agreement.

The Company may cause a memorandum of this Agreement, in form and substance satisfactory to the Company and the Issuer, in the Issuer's reasonable judgment, to be kept, recorded and filed in such manner and in such places as may be required by law to fully evidence, preserve and protect the leasehold estate of the Company.

**Section 11.17 Release**. The Issuer will not be liable to the Company, and the Company releases and discharges the Issuer from any liability for any and all losses, costs, expenses (including attorneys' fees), damages, judgments, claims and causes of action, paid, incurred or sustained by the Company as a result of or relating to any action, or failure or refusal to act, on the part of the Depository or the Purchaser with respect to the Bond, the Indenture, this Lease, or the documents and transactions related hereto or thereto or contemplated hereby or thereby, including, without limitation, the exercise by the Depository, Purchaser or any third party of any of its rights or remedies pursuant to any of such documents.

**Section 11.18 Non-Merger**. The provisions of this Agreement shall survive the conveyance or transfer of the Project Property to the Issuer, the reconveyance or transfer of the

Project Property to the Company and any other performance hereunder, and shall not be deemed merged in any deed or other instrument or document delivered hereunder.

*[Remainder of Page Intentionally Left Blank]*

DATED AS OF _____ ____, 2025.

ATTEST: CITY OF LAS CRUCES, NEW MEXICO

_____ By_____
City Clerk/Treasurer Its Mayor

(Seal)

STATE OF NEW MEXICO )
)
COUNTY OF DOÑA ANA )

This instrument was acknowledged before me on _____, 2025, by _____, as Mayor of the City of Las Cruces, a political subdivision of the State of New Mexico.

_____
Notary Public

My commission expires:

_____

*[Signature Page for Lease Agreement]*

ENDURANCE TECHNOLOGIES USA INC.

By: _____
Name:
Title:

STATE OF _____ )
)
COUNTY OF _____ )

This instrument was acknowledged before me on _____, 2025, by _____-_____ of Endurance Technologies USA Inc., a Delaware corporation.

_____
Notary Public

My commission expires:
_____

*[Signature Page for Lease Agreement]*

**EXHIBIT A**
**PROJECT SITE**

That certain property located at _____ and further described as follows:

Exhibit "A"

**SCHEDULE 5.3(A)**

PAYMENT SCHEDULE
CITY OF LAS CRUCES, NEW MEXICO
TAXABLE INDUSTRIAL REVENUE BOND
(ENDURANCE TECHNOLOGIES USA INC. PROJECT)
SERIES 2025
Up to $17,600,000*

| Year | Maximum Total Debt Service | Principal Payments Requirements in such Period | Maximum Interest for such Period |
|---|---|---|---|
| 2015 | | - 0- | |
| 2016 | | - 0- | |
| 2017 | | - 0- | |
| 2018 | | - 0- | |
| 2019 | | - 0- | |
| 2020 | | - 0- | |
| 2021 | | - 0- | |
| 2022 | | - 0- | |
| 2023 | | - 0- | |
| 2024 | | - 0- | |
| 2025 | | - 0- | |
| 2026 | | - 0- | |
| 2027 | | - 0- | |
| 2028 | | - 0- | |
| 2029 | | - 0- | |
| 2030 | | - 0- | |
| 2031 | | -0- | |
| 2032 | | -0- | |
| 2033 | | -0- | |
| 2045 | | | |

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Exhibit “B”

CITY OF LAS CRUCES, NEW MEXICO,

[PURCHASER]
as Purchaser

ENDURANCE TECHNOLOGIES USA INC.

and

BOKF, N.A. as Depositary

---

# INDENTURE

---

Dated as of November ____, 2025

Securing

Up to $17,600,000
City of Las Cruces, New Mexico
Taxable Industrial Revenue Bond
(Endurance Technologies USA Inc. Project)
Series 2025

CITY OF LAS CRUCES, NEW MEXICO, a political subdivision existing under the laws of the State of New Mexico (together with its successors and assigns, the **"Issuer"**) and _____ [Purchaser] a Delaware limited liability company (together with its successors and assigns, and transferees of the Bond (defined below), the **"Purchaser"**), ENDURANCE TECHNOLOGIES USA INC., a Delaware corporation (the **"Company"**) and BOKF, N.A. (together with its successors and assigns, the **"Depositary"**), agree:

## ARTICLE I - RECITALS

**Section 101. The Act**. Pursuant to Sections 3-32-1 through 3-32-16, New Mexico Statutes Annotated, 1978 Compilation, as amended (collectively, the **"Act"**), the Issuer is authorized to acquire, construct and equip certain industrial or commercial projects and to issue industrial revenue bonds to finance such projects and certain related costs. Such bonds are payable by the Issuer solely out of revenue of the leasing of such projects. Such bonds may be further secured by, among other things, a mortgage and lien upon the properties acquired, constructed and equipped as part of the project. Under the Act, a project may include land, buildings, machinery, equipment and other property deemed necessary in connection with such project.

**Section 102. Government Proceeding**. The Company has presented to the City of Las Cruces City Council, a proposal relating to the issuance of a taxable industrial revenue bond and the acquisition, development and equipping of a steel pipe processing, enhancement and manufacturing facility located in within the corporate limits of the City of Las Cruces, New Mexico, and its related supporting equipment and improvements. The Issuer, by City Council Ordinance No. _____ adopted on November 17, 2025 (the **"Ordinance"**), authorized, among other matters,) the issuance of its City of Las Cruces, New Mexico, Taxable Industrial Revenue Bond (Endurance Technologies USA Inc. Project), Series 2025 (the **"Bond"**), in the principal amount not to exceed $17,600,000 and substantially in the form of Exhibit A and (ii) the execution and delivery of this Indenture (together with any and all amendments and supplements, this "**Indenture**").

**Section 103. Indenture; Lien; Collateral Pledge**. The Bond is to be issued under this Indenture which constitutes a collateral pledge and assignment of the Agreement (defined below).

**Section 104. The Agreement**. The Issuer has entered into a Lease Agreement (together with any and all amendments and supplements, the "**Agreement**"), dated as of the date of this Indenture, with the Company under which the Issuer has leased the Project Property to the Company, and the Company has agreed to make rental payments in amounts sufficient to pay the principal of, interest on and redemption price of the Bond. For the purpose of providing security for the payment of the principal of, interest on and redemption price of the Bond, the Issuer wishes to assign to the Purchaser certain of its interests in the Agreement but reserving its rights under the Agreement to certain payments, reimbursement for certain costs and expenses, and to give consents and to be indemnified.

**Section 105. Conditions Precedent Performed**. The Issuer is not aware of any act, condition and thing required on the part of the Issuer by the Constitution and laws of the State of

New Mexico to happen, exist or be performed precedent to and in the execution and delivery of this Indenture, the Agreement and the issuance of the Bond, except such as do exist and have happened and been performed.

## ARTICLE II – DEFINITIONS; OTHER PROVISIONS OF GENERAL APPLICATION

**Section 201. Meanings of Words and Terms**. All capitalized words and terms defined in the Agreement have the same meanings when used in this Indenture if not also defined in this Indenture. Defined terms in all Bond Documents have consistent meanings unless otherwise expressed. In addition:

"Acquisition Fund" has the meaning assigned in Section 701.

"Act" has the meaning assigned in Section 101.

"Agreement" has the meaning assigned in Section 104.

"Authorized Company Representative" means any one of the persons at the time designated to act on behalf of the Company in a certificate furnished to the Issuer and the Depositary containing the specimen signatures of such persons and signed on behalf of the Company by an officer of the Company.

"Bank" means _____.

"Bond" has the meaning assigned in Section 102.

"Bonds" means the Bond.

"Bond Documents" means this Indenture, the Agreement and the Bond Purchase Agreement.

"Bond Purchase Agreement" means the Bond Purchase Agreement dated the date of the execution and delivery of this Indenture among the Purchaser, the Issuer and the Company.

"Business Day" means any day that is not a Saturday or Sunday or a day on which banking institutions in the State or in the County of payment are authorized or required to close.

"Certificate of Qualified Investor" means the certificate attached hereto as Exhibit E.

"Company" has the meaning assigned in the first paragraph of this Indenture.

"Completion Certificate" means a certificate by the Company certifying that the Project is complete and all costs have been paid for or provisions have been made for their payment, in the form attached hereto as Exhibit D.

"County" means Doña Ana County, New Mexico.

"Event of Default" has the meaning assigned in Section 901.

"Fee Mortgage" has the meaning assigned in Section 303.

"Final Maturity Date" means December 1, 2045.

"Government Obligations" means non-callable direct general obligations of the United States of America or obligations the payment of principal of and interest on which is unconditionally guaranteed by the United States of America.

"Indenture" has the meaning assigned in Section 103.

"Issue Date" means the date of issuance and delivery of the Bond to the Purchaser.

"Issuer" has the meaning assigned in the first paragraph of this Indenture.

"Loan Agreement" means the Loan Agreement dated as of _____ among the Company and the Bank providing for, among other things, the financing of the Project Property and all amendments, modifications, replacements, restatements, refinancings thereof.

"Ordinance" has the meaning assigned in Section 102.

"Parties" means the Company, the Issuer, the Purchaser and the Depositary.

"Party" means any one of the Parties.

"Payment Date" means each October 1 while the Bond is outstanding.

"Payment of the Bond" means payment in full of the principal of, interest on and redemption price of the Bond in accordance with their terms and the provisions of this Indenture and payment of all fees and expenses of the Issuer, the Purchaser and the Depositary payable by the Company under this Indenture, the Agreement or the Bond Purchase Agreement.

"Person" means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision.

"Project" means the acquisition of the Project Site and the acquisition, development and equipping of a steel pipe processing, enhancement and manufacturing facility located in within the corporate limits of the City of Las Cruces, New Mexico, and its related supporting equipment and improvements (including the Project Property) made with the proceeds of the Bonds from time to time for use by the Company.

"Project Site" means the real property in the County and within fifteen (15) miles of the corporate limits of the Issuer described in Exhibit A to the Agreement.

"Record Date" means each October 1 while the Bond is outstanding.

"Related Costs" means expenditures incurred or to be incurred by the Company with respect to the Project, including, without limitation, the acquisition, installation, construction and commissioning of the Project Property.

"State" means the State of New Mexico.

**Section 202. Rules of Construction**.

(a) The captions and headings in this Indenture are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Indenture.

(b) All references in this Indenture to particular articles, sections or exhibits are references to articles or sections of or exhibits to this Indenture unless some other reference is established.

(c) Any inconsistency between the provisions of the Agreement and the provisions of this Indenture will be resolved in favor of the provisions of this Indenture. Any inconsistencies between the provisions of the Agreement and this Indenture, on the one hand and the Loan Agreement, on the other, with respect to the Project Property or the Company relating to the financing thereto and related provisions, will be resolved in favor of the Loan Agreement, for so long as the Loan Agreement is in effect.

**Section 203. Bond Not General Obligations of Issuer**. Neither the faith and credit nor the taxing power of the State or of any of its political subdivisions, including the Issuer, is pledged to the payment of the principal of, interest on or redemption price of the Bond. The Bond will be payable by the Issuer solely out of the Basic Rent, proceeds and receipts and other security pledged hereby. The principal of, interest on and redemption price of the Bond will never constitute a debt or indebtedness or general obligation of the Issuer within the meaning of any State constitutional provision or statutory limitation. The Bond will never constitute or give rise to a pecuniary liability of the Issuer or be a charge against its general credit or a charge against the general credit or the taxing powers of the State or any political subdivision thereof.

## ARTICLE III – GRANT

**Section 301. Assignment and Pledge**. In consideration of the purchase of the Bond by the Purchaser, and in order to secure the payment of the principal of (including, without limitation, all sums advanced by the Purchaser, with interest thereon, in accordance with the terms of this Indenture and the other Bond Documents (all references in this Indenture to the payment of principal of the Bond shall include such sums), interest on and redemption price of the Bond, and in order to secure the performance by the Issuer of its obligations under this Indenture and the Bond, the Issuer assigns and pledges to the Purchaser and grants a mortgage and a security interest to the Purchaser in (i) all the Issuer's right, title and interest in and to the Project Property, the Agreement and any other easement, lease, sublease, license, concession or other grant of a possessory or use interest in the Project Property to the extent the Issuer has any interest therein but reserving its rights under the Agreement related to the Unassigned Rights (as defined in the Agreement), to payments under Sections 4.14, 5.3(b), 6.2, 6.3, 6.4, 6.5 6.6, 6.7 and 8.5 of the Agreement, to reimbursement for certain costs and expenses, to receive notices, to give consents and to be indemnified; (ii) the moneys and investments in the Acquisition Fund and all reserves payable to the Issuer pursuant to the Agreement or this Indenture (including, without limitation, insurance and eminent domain proceeds) with respect to the Project Property; (iii) all lease rentals, revenues, profits, and receipts receivable by or on behalf of the Issuer from the Project Property.

**Section 302. Release**. If (i) the principal of and interest on the Bond are paid by the Issuer in full, as provided for herein, (ii) the Purchaser has received all sums due it under the Bond Documents, and (iii) the Issuer keeps, performs and observes all agreements, covenants and provisions under this Indenture, then all obligations of the Issuer as to the Bond under this Indenture will terminate, and the Purchaser will cancel and discharge the lien of this Indenture and execute and deliver to the Issuer and the Company such instruments in writing as may be required to evidence such discharge. The Mayor and/or the City Clerk or City Treasurer of the Issuer are authorized to accept a certificate of from the Purchaser, that all principal and interest due on the Bond have been paid as evidence of the satisfaction of this Indenture.

**Section 303. Priority of Existing Deed of Trust**. The Issuer, the Purchaser and the Depositary acknowledge that (i) the Bank holds a first and prior mortgage lien on and security interest in the Project Property pursuant to a Deed of Trust (with Statutory Power of Sale) and Assignment of Rents and Security Agreement granted by the Company for the benefit of the Bank (the "Fee Mortgage") and (ii) the Issuer's interest in the Project Property and the liens and security interests granted by and created in this Indenture in favor of the Issuer, the Purchaser or the Depositary are subordinate to the Fee Mortgage and the lien thereof, and to all renewals, modifications, consolidations, replacements and extensions of the Fee Mortgage and obligations secured thereby, including the Loan Agreement.

## ARTICLE IV - AUTHORIZATION, FORM, EXECUTION AND DELIVERY OF BOND

**Section 401. Authorization; Authorized Amount of the Bond**. The Bond is hereby authorized to be issued under this Indenture and secured by this Indenture. The Bond will be issued as a single fully registered bond without coupons. The Bond will be issued in the

maximum principal amount of up to $17,600,000. The Bond will be numbered R-1. The Bond may not be issued under this Indenture except in accordance with this Article.

**Section 402. Form of Bond**. The Bond will be in substantially the form of Exhibit A. The Bond will be dated the date of the execution and delivery of this Indenture and will bear interest on Advances made pursuant to Section 702 at 4% per annum on the aggregate amount of such Advances. All interest on the Bond will be calculated from the date of advance for all periods on the basis of a 360-day year of twelve thirty-day months. Interest only shall be payable annually on each Payment Date. Principal and interest, as applicable, will be payable by the Issuer from the Basic Rent received from the Company to the owner of the Bond on the immediately preceding Record Date. The final payment will be made upon presentation of the Bond for cancellation at the offices of the Issuer. All payments will be made in lawful money of the United States.

**Section 403. Execution and Delivery; Payment**. The Bond will be signed by the Mayor or Mayor Pro-Tem of the Issuer and delivered to the Purchaser on the date of the execution and delivery of this Indenture. Subject to the terms and conditions of the Bond Purchase Agreement, the Purchaser will purchase the Bond and will pay the purchase price of the Bond to the Issuer as set forth in Section 701.

**Section 404. Registration and Transfer of the Bond**. The Company on behalf of the Issuer will cause to be kept at its office a book for the registration and transfer of the Bond. The registration book will be open to inspection by the Issuer upon advance notice during the Company's normal business hours.

The Bond, together with the obligation to fund advances thereunder, may be transferred by the Purchaser in whole, but not in part, in person or by duly authorized attorney, in the registration book upon (i) surrender of the Bond, (ii) delivery of a written transfer instrument, and (iii) compliance with Securities Act of 1933, as amended (the "Federal Securities Act"), and applicable state securities laws as established to the satisfaction of the Issuer, and delivery to the Issuer and the Company of (A) an opinion, in form and substance satisfactory to the Issuer, from legal counsel experienced in securities laws matters, which counsel must be satisfactory to the Issuer, to the effect the transfer complies with the Federal Securities Act and applicable state securities laws and (B) written representations from the transferee, in form and substance satisfactory to the Issuer (including, but not limited to the form of Certificate of Qualified Investor), necessary to establish such compliance all as further set forth in the Bond form attached as Exhibit A. Such Issuer approval shall be in writing. In the case of a Permitted Transfer or other transfer under this Section 404, the Issuer agrees that it will cooperate in delivering a new Bond, registered in the name of the transferee. The person requesting the transfer will pay any tax or fee or other charge imposed on the transfer. The Issuer may deem and treat the person in whose name the Bond is registered as the absolute owner thereof for the purpose of receiving payment and for all other purposes, and all such payments made to any such registered owner or upon its written order will be valid and effectual to satisfy and discharge the liability upon the Bond, to the extent of the sum or sums paid; and the Issuer will not be affected by any notice to the contrary.

The Issuer acknowledges that the Purchaser may assign its rights to receive payments of principal, interest and any amounts due under the Bond to any party without the consent of the Issuer.

**Section 405. Lost, Stolen, Destroyed and Mutilated Bond**. If the Issuer receives satisfactory evidence that the Bond has been lost, stolen, destroyed or mutilated and receives satisfactory indemnity, and the mutilated Bond is surrendered and cancelled, then the Issuer will execute and deliver a new Bond. The applicant for a new Bond will pay any charges and expenses in connection with the issuance of the new Bond. A new Bond issued under this Section will be an original contractual obligation of the Issuer and will be entitled to all of the benefits of this Indenture. The provisions of this Section with respect to the replacement of the lost, stolen, destroyed or mutilated bond are exclusive.

**Section 406. Cancellation and Destruction of the Bond by Issuer**. If the Bond is delivered to the Issuer for cancellation, the Bond will be cancelled immediately and destroyed by the Issuer.

**Section 407. Application of Payments for Bond**. All payments received by the Issuer under Section 5.3(a) of the Agreement as Basic Rent with respect to the Bond will be applied first to repay sums advanced by the Purchaser and other charges due the Purchaser pursuant to the Bond Documents, second, to accrued interest on the Bond on the next date for the payment of such interest and, third, to the unpaid principal of the Bond. If such payments exceed sums advanced by the Purchaser, accrued interest on and the unpaid principal of the Bond, and any other amounts owed, the excess will be paid to the Company. The parties acknowledge that the Company may pay, discharge and redeem the Bond by offsetting amounts owed under the Bond to the Purchaser against monies owed to the Company by the Purchaser, including but not limited to monies advanced by or on behalf of the Company to or on behalf of the Purchaser in anticipation of making Bond advances under this Indenture.

## ARTICLE V - REDEMPTION

**Section 501. Redemption**. If the Company gives notice to the Issuer, the Depositary and the Purchaser pursuant to Article IX of the Agreement that the Company has elected to cause redemption of the Bond in full or in part and the Company pays the redemption price, all or such portion of the Bond will be deemed redeemed by the Issuer on the date indicated in such notice at a redemption price equal to the principal amount to be redeemed plus accrued interest on such principal amount to the redemption date. If the Company redeems the Bond in full before the Completion Date, any monies held in the Acquisition Account shall be returned to the Company.

## ARTICLE VI - BOND PAYMENT

**Section 601. Source of Payment of the Bond**. The Bond and all payments by the Issuer under this Indenture are not general obligations of the Issuer, and shall never constitute indebtedness of the Issuer, but are the limited, special obligations of the Issuer payable solely from revenues and receipts derived from the leasing of the Project Property under the Agreement and other security pledged to payment of the Bond under this Indenture. The Project Property

has been leased under the Agreement and the Basic Rent is to be remitted by the Company directly to the Purchaser on or before each Payment Date, subject to the rights of offset set forth in Section 5.4(b) of the Agreement. The portion of the Basic Rent necessary to pay amounts owing on the Bond is to be satisfied pursuant to the exercise of the right of offset as set forth in Section 5.4(b) of the Agreement. The Basic Rent is sufficient in amount to insure the prompt payment of the principal and accrued interest on the Bond and the entire amount of the Basic Rent is pledged to the payment of principal and accrued interest on the Bond.

## ARTICLE VII - ACQUISITION FUND

**Section 701. Creation of the Acquisition Fund; Deposits**. A fund is hereby created with the Depositary and designated "Endurance Technologies USA Inc. Project Series 2025 Acquisition Fund." Subject to the terms of the Bond Purchase Agreement, the Purchaser will purchase the Bond on the date of execution and delivery of the Indenture and will pay the purchase price of the Bond through the Advances described in Section 702. The proceeds of the sale of the Bond, the interest and other income received on investments of the Acquisition Fund moneys as provided in Section 708 will be retained in the Acquisition Fund. The moneys in the Acquisition Fund will be held by the Depositary and will be applied to the payment of Related Costs and, pending such application, will be subject to a lien in favor of the Purchaser or its assignee to secure payment of principal and accrued interest on the Bond. The Acquisition Fund will be in the custody of the Depositary, and the Depositary is authorized and directed to wire from or issue checks on the Acquisition Fund for the payment of Related Costs pursuant to Section 702.

**Section 702. Disbursements**. The Company may request Advances from time to time to finance the Project (each, an "Advance") by delivery of a Requisition Notice to the Purchaser and the Depositary in the form attached hereto as Exhibit C (the "Requisition Notice"). On or before the fifth business day following receipt of the Requisition Notice from the Company requesting an Advance so long as no Event of Default has occurred and is continuing the Purchaser will pay or cause to be paid the amount of the Advance requested in such Requisition Notice to the Depositary for deposit in the Acquisition Fund, provided, however, that the aggregate amount of such Advances shall not exceed $17,600,000. The Depositary will make payments of Related Costs from the Acquisition Fund not later than the business day following the date of receipt of payment of the amount of the Advance from Purchaser, provided that immediately available funds are on deposit therein. The Requisition Notice signed by an Authorized Company Representative shall state to whom the payment is to be made, the general purpose for which the obligation to be paid was incurred, and that:

(a) obligations in the stated amounts were incurred for Related Costs and are due and payable (or, if the Company is indicated as the payee, were duly paid by the Company) and that each item is a proper charge against the Acquisition Fund and has not been the subject of a previous withdrawal from the Acquisition Fund;

(b) to the best knowledge of such Authorized Company Representative there has not been filed with or served upon the Issuer or the Company notice of any lien, right or attachment upon, or claim affecting the right of any such payees to receive payment of, the

respective amounts stated in such requisition which has not been released or will not be released simultaneously with the payment of such obligation; and

(c) with respect to any item for payment for labor or to contractors, builders or materialmen, (i) the obligations stated have been properly incurred, (ii) such work was actually performed or such materials or supplies were actually furnished or installed in or about the Project, and (iii) either such materials or supplies are not subject to any lien or security interest or any such lien or security interest will be released or discharged upon payment of the requisition.

**Section 703. Records**. The Depositary will keep and maintain all Requisition Notices and adequate records pertaining to the Acquisition Fund, and payments made therefrom, which will be open to inspection by the Issuer, the Purchaser, the Company, or their agents, upon advance notice, during normal business hours.

**Section 704. Depositary May Rely on Requisitions**. All writings, requisitions and certificates received by the Depositary as conditions of payment from the Acquisition Fund, and which are proper and complete on their face, may be conclusively relied upon by the Depositary and will be retained by the Depositary, subject at all reasonable times, upon advance notice, to examination by the other Parties and their respective agents and representatives.

**Section 705. Status Reports**. At least annually, the Depositary will make a written report covering all receipts and moneys then on deposit in the Acquisition Fund, and will report any investments of such moneys and all transfers and disbursements of such moneys as of and for the preceeding year. The reports will be prepared in conformity with the provisions of this Indenture, and copies of each report will be filed with the Purchaser, the Company, and, if requested by the Issuer, with the Issuer, not later than the fifteenth day of the month following the year covered by the report.

**Section 706. Completion Date**. Upon receipt of a certificate substantially in the form of Exhibit D signed by an Authorized Company Representative establishing the Construction Completion Date, as established in Section 4.4 of the Agreement, the Depositary will set aside in the Acquisition Fund the moneys necessary for the payment of the Related Costs incurred by the Company but not then due or payable as set forth in such certificate, and then will transfer any other moneys remaining in the Acquisition Fund to the Company or its assignee.

**Section 707. Payment on Acceleration**. If the Purchaser declares the unpaid principal of and accrued interest on the Bond to be immediately due and payable pursuant to Section 902(a), the Depositary will promptly, upon receipt of notice of such declaration from the Purchaser or its assignee, return all moneys then held for the credit of the Acquisition Fund in accordance with Section 905 to the Purchaser or its assignee for application to the unpaid principal of and accrued interest on the Bond.

**Section 708. Investments**. Moneys on deposit in the Acquisition Fund may be invested and reinvested by the Depositary, at the written direction of an Authorized Company Representative. Such investments will be deemed at all times to be a part of the Acquisition Fund. Any interest received on any such investment and any profit realized from such

investment will be credited to the Acquisition Fund. Any loss resulting from any such investment will be charged to the Acquisition Fund. The Depositary will use all reasonable efforts to sell at the best price obtainable or present for redemption any such investment when necessary in order to provide cash to meet any payment or transfer from the Acquisition Fund. Neither the Depositary nor the Issuer will be responsible for any loss, liability or expense (or failure to realize profits) resulting from any such investment. The Depositary may make any such investment through its own or its affiliated bond or investment department, unless otherwise directed in writing by an Authorized Company Representative.

**Section 709. No Liability**. Issuer will not be liable or responsible for any misapplication of funds, loss, liability or expense (or failure to realize profits) with respect to the Acquisition Fund, and the Company shall indemnify and hold Issuer harmless from and against all claims, liabilities or whatsoever nature arising from or relating to the Acquisition Fund or the Company's management of the Acquisition Fund.

## ARTICLE VIII - PARTICULAR COVENANTS AND PROVISIONS

**Section 801. Extent of Covenants; Disclaimer of Liability**. It is expressly made a condition of this Indenture that any covenants, stipulations, obligations, representations or agreements herein contained or contained in the Bond or this Indenture does not and will never give rise to a personal or pecuniary liability of any present or future officer, employee or agent of the Issuer, or be a charge against the general credit or taxing powers of the Issuer, and in the event of a breach of such covenant, stipulation, obligation, representation or agreement, no personal or pecuniary liability of any present or future officer, employee or agent of the Issuer, or charge payable by the Issuer directly or indirectly from the revenues of the Issuer, other than the Revenues of the Project from Basic Rent, will arise therefrom. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OR OF ANY OF ITS POLITICAL SUBDIVISIONS, INCLUDING THE ISSUER, IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, INTEREST ON OR REDEMPTION PRICE OF THE BOND. THE PRINCIPAL OF, INTEREST ON AND REDEMPTION PRICE OF THE BOND WILL NEVER CONSTITUTE A DEBT OR INDEBTEDNESS OR GENERAL OBLIGATION OF THE ISSUER WITHIN THE MEANING OF ANY PROVISION OR LIMITATION OF THE CONSTITUTION OR LAWS OF THE STATE. THE BOND OR THIS INDENTURE WILL NEVER CONSTITUTE NOR GIVE RISE TO A PECUNIARY LIABILITY OF THE STATE, ANY OF ITS POLITICAL SUBDIVISIONS OR OF THE ISSUER OR A CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWERS. NONE OF THE PROVISIONS OF THIS INDENTURE SHALL REQUIRE THE ISSUER TO EXPEND OR RISK ITS OWN FUNDS OR TO OTHERWISE INCUR FINANCIAL LIABILITY IN THE PERFORMANCE OF ANY OF ITS DUTIES OR IN THE EXERCISE OF ANY OF ITS RIGHTS OR POWERS HEREUNDER.

**Section 802. Performance; Authority**. The Issuer covenants that it will faithfully perform all covenants and provisions contained in this Indenture and in the Bond. The Issuer represents that it is duly authorized under the Constitution and laws of the State of New Mexico, including the Act, to issue the Bond, to execute and deliver this Indenture, to grant a security interest in the property described in this Indenture, to pledge the rentals and other revenues described in this Indenture and that it has, to its knowledge, taken all actions required on its part

for the issuance of the Bond, and for the execution and delivery of this Indenture and the Agreement.

**Section 803. Office or Agency**. The Issuer will maintain an office or agency in City of Las Cruces, New Mexico, while the Bond is outstanding and where demands with respect to this Indenture or the Bond may be made. The office of the Mayor of the Issuer will be such agency until further notice.

**Section 804. Obligations Under the Agreement**. The Issuer: (i) will perform all of its obligations under the Agreement; (ii) will not execute or agree to any change, amendment or modification of or supplement to the Agreement except in accordance with the provisions thereof and Section 1101 of this Indenture; (iii) will not agree to any abatement, reduction or diminution of the Basic Rent without the written approval of the Purchaser; and (iv) will promptly notify the Purchaser of any Event of Default of which it has actual notice. The parties acknowledge that the Issuer has no obligation to enforce the Agreement but any actions taken by the Issuer to enforce the Agreement shall be at the expense of the Company.

**Section 805. Use and Possession by the Company**. So long as not otherwise provided in this Indenture, the Agreement or the Financing Agreement, the Company will be permitted to possess, use and enjoy the Project Property so as to carry out its obligations under the Agreement.

**Section 806. Instruments of Further Assurance**. The Issuer will, at the expense of the Company or the Purchaser, execute, acknowledge, deliver and perform such supplemental indentures or such further acts, instruments, documents and transfers as the Depositary or the Purchaser may reasonably require for better assuring, transferring, mortgaging and pledging unto the Depositary or the Purchaser all the property and revenues and receipts pledged to the payment of the Bond under this Indenture.

**Section 807. Recording of Indenture, Supplemental Indentures and Other Documents**. The Company will cause this Indenture, the Agreement, and all supplements to this Indenture and the Agreement, as well as all security instruments, financing statements, continuation statements and any other instruments as may be required, to be recorded or filed in such manner and places as required to fully preserve and protect the security of the Purchaser and the rights of the Depositary, including recording in the real estate records of Doña Ana County, New Mexico. The Depositary and the Issuer will have no responsibility to make any such filings except for filings as the Company may from time to time request.

## ARTICLE IX - EVENTS OF DEFAULT AND REMEDIES

**Section 901. Events of Default**. Each of the following events is an "Event of Default:"

(a) Failure to pay any installment of principal or interest due under the Bond when due and such failure continues unremedied for a period of 30 days after the provision by the Issuer or the Purchaser of written notice of non-payment;

(b) An Event of Default under the Agreement or any other Bond Document (other than this Indenture) occurs and is continuing;

(c) The Company fails to perform any covenant contained in this Indenture or the Bond Documents, other than as specified in subsections (a) and (b) above, and such failure is not cured within 30 days after receipt by the Company of the written notice of such failure unless the Purchaser shall agree in writing to the extension of such time prior to its expiration.

**Section 902. Remedies on Events of Default**. Upon the occurrence of an Event of Default, the Purchaser will have the following rights and remedies:

(a) Acceleration. The Purchaser or its assignee may, by written notice given to the other Parties, declare the principal amount of the Bond outstanding to be immediately due and payable and principal and interest thereon will become immediately due and payable; provided, however, that the Purchaser or its assignee, by written notice to the other Parties, may annul such declaration and destroy its effects and waive any such default: (i) if all covenants, conditions and agreements with respect to which such default shall have been made shall be fully performed, (ii) all arrears shall have been paid on any installment of interest and principal which has been theretofore due, plus (to the extent permitted by law) interest thereon from the due dates, and (iii) all reasonable charges and expenses of the Issuer, the Purchaser, the Depositary and their agents and counsel shall have been paid or provided for. Any such declaration that the Bond is due and payable will be deemed to be a redemption of the Bond;

(b) Suit for Judgment on the Bond. The Purchaser will be entitled to sue either for the specific enforcement of any covenant or agreement contained herein, or in any of the Bond Documents, or in and of the execution of any power herein granted and/or for and recover judgment, either before or after or during the pendency of any proceedings for the enforcement of the lien of this Indenture or for the enforcement of any of its rights, but any such judgment against the Issuer will be enforceable only against the funds and accounts related to and held under this Indenture for the Bond. There will not be authorized any deficiency judgment against the Issuer. No recovery of any judgment by the Purchaser will in any manner or to any extent affect the lien of this Indenture or any rights, powers or remedies of the Purchaser hereunder, but such lien, rights, powers and remedies of the Purchaser will continue unimpaired; and

(c) Enforcement of Rights Under Agreement. The Purchaser or its assignee may, as assignee of specified interests of the Issuer in the Agreement, enforce any remedy available to the Issuer under the Agreement (except the remedies of the Issuer pursuant to Section 8.3 of the Agreement) and under any other lease, sublease, license or other grant of a possessory or use interest in the Project Property.

No right or remedy confirmed on any Party hereunder is intended to be exclusive of any other right or remedy confirmed on such Party hereunder, but each and every such right or remedy will be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or by statute; provided, that the remedy of Purchaser in respect of an Event of Default or other breach hereunder or any other Bond Document shall be limited in all cases to those expressly provided in Section 902.

**Section 903. Rights and Remedies of Purchaser**. The Purchaser will not have the right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust related thereto or for the appointment of a receiver or any other remedy hereunder, unless an Event of Default has occurred and is continuing of which the Company has been notified, it being understood and intended that the Purchaser will not have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture by its actions or to enforce any right hereunder except in the manner herein provided. Nothing in this Indenture will, however, affect or impair the right of the Purchaser to enforce the payment of the principal of and interest on the Bond, when due or at and after the maturity thereof, or the obligation of the Issuer to pay the principal and interest on the Bond at the time and place and from the revenues provided in this Indenture or in the Bond.

**Section 904. Issuer and Depositary Not Responsible**. Neither the Issuer nor the Depositary has any responsibility or right to act on behalf of the Purchaser with respect to any Event of Default. All rights and remedies arising from or related to any Event of Default are solely the rights and remedies of the Purchaser; provided that, upon request and at the expense of the Purchaser, the Issuer will cooperate with the Purchaser in the lawful enforcement of such rights and remedies upon receipt of indemnity satisfactory to the Issuer in the Issuer's sole discretion against any out-of-pocket costs and expenses paid by the Issuer in its sole discretion (including any counsel fees and expenses) or liability the Issuer may incur or suffer as a result of or in connection with such cooperation.

**Section 905. Application of Moneys**. All moneys received by the Issuer or the Purchaser pursuant to any right given or action taken under the provisions of this Article will, after payment of the cost and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities, and advances incurred or made by the Issuer and the Purchaser, will be applied first to pay the fees and expenses of the Issuer and the Depositary; then to pay sums advanced by the Purchaser pursuant to the Bond Documents, with interest thereon, then to the payment of charges due the Purchaser pursuant to the Bond Documents, and then to the payment of interest and principal due and unpaid on the Bond. Whenever moneys are to be applied pursuant to the provisions of this Section, such moneys will be applied at such times, and from time to time, as the Issuer will determine.

Whenever the Bond and interest thereon have been paid under the provisions of this Section and all expenses and charges of and payments due to the Purchaser, the Issuer and the Depositary (and their respective counsel and agents) under this Indenture and the Agreement have been paid, any balance remaining will be paid to the Company or its assignee as provided in Section 604.

**Section 906. Purchaser to File Proofs of Claim**. In the case of any insolvency, bankruptcy, reorganization, arrangement, adjustment, composition, or other judicial proceedings affecting the Project Property or the Company, the Purchaser will, to the extent permitted by law, be entitled to file such proofs of claims and other documents as may be necessary or advisable in order to have claims of the Purchaser allowed in such proceedings for the entire amount due and payable by the Issuer under this Indenture, or by the Company, as the case may be, at the date of the institution of such proceedings and for any additional amounts which may become due and payable after such date.

**Section 907. Delay or Omission No Waiver**. No delay or omission of the Purchaser to exercise any right or power accruing upon any Event of Default will exhaust or impair any such right or power or shall be construed to be a waiver of any such Event of Default, or acquiescence therein; and every power and remedy given by this Indenture to the Purchaser may be exercised from time to time and as often as may be deemed expedient by the Purchaser.

**Section 908. No Waiver of One Default to Affect Another**. No waiver of any Event of Default by the Purchaser, will extend to or affect any subsequent or any other then existing Event of Default or shall impair any rights or remedies consequent thereon.

**Section 909. Discontinuance of Proceedings on Default; Position of Parties Restored**. In case the Purchaser shall have proceeded to enforce any right under this Indenture by foreclosure, entry, or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Purchaser, then and in every such case the Issuer and Purchaser will be restored to their former positions and rights under this Indenture with respect to the Project Property and all rights, remedies, and powers of the Purchaser will continue as if no such proceedings had been taken.

**Section 910. Waivers of Events of Default**. The Purchaser may, in its discretion, waive any Event of Default (other than those related to the Reserved Rights of the Issuer in Section 8.3 of the Agreement) and its consequences and rescind any declaration of maturity of principal of and interest on the Bond. In case of any such waiver or rescission, or in case any proceeding taken by the Purchaser on account of any such Event of Default shall have been discontinued or abandoned or determined adversely to the Purchaser, then in every such case the Issuer and the Purchaser shall be restored to their former respective positions and rights hereunder, and the Event of Default which was waived will be considered to be cured, but no waiver or rescission shall extend to any subsequent or other Event of Default, or impair any right consequent thereon.

## ARTICLE X – THE DEPOSITARY

**Section 1001. Acceptance of Duties**. The Depositary accepts the duties imposed on it by this Indenture, but only on the following express terms and conditions:

(a) The Depositary undertakes to perform such duties and only such duties as are specifically set forth in this Indenture and no implied covenants or obligations will be read into this Indenture against the Depositary.

(b) In the absence of negligence or willful misconduct on its part, the Depositary may conclusively rely on certificates or notices furnished to the Depositary and conforming to the requirements of this Indenture or the Agreement, as the case may be; but if any such certificates or notices are specifically required to be furnished to the Depositary under this Indenture or the Agreement, the Depositary will examine the same to determine whether they conform to the requirements of this Indenture or the Agreement, as the case may be.

(c) The Company hereby indemnifies and holds harmless the Depositary from and against any and all loss, liability, cost, damage and expense, including, without limitation, reasonable counsel fees, which the Depositary may suffer or incur by reason

of any action, claim or proceeding brought against the Depositary arising out of or relating in any way to this Indenture or any transaction to which the Indenture relates unless such action, claim or proceeding is the result of the negligence or willful misconduct of the Depositary. The indemnification shall survive the resignation, removal and termination of the Depositary. No provision of this Indenture will be construed to relieve the Depositary from liability for its own negligence or willful misconduct.

(d) The Depositary may consult with counsel and other professionals and the advice of such counsel and other professionals shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by the Depositary hereunder in good faith and in reliance thereon.

(e) The Depositary shall be under no obligation to take any action or exercise any right or power under the Indenture unless the Company shall first have provided to the Depositary, its directors, officers, agents and employees, security or indemnity satisfactory to the Depositary against the costs (including without limitation reasonable fees of attorneys), expenses and liabilities that might be incurred by the Depositary in connection herewith.

**Section 1002. Compensation.** The Company will pay directly to the Depositary its reasonable fees and charges and all of its reasonable expenses (including reasonable counsel fees and expenses).

**Section 1003. Qualification**. The Depositary must be an association or a corporation organized and doing business under the laws of the United States of America or of any state and be subject to supervision or examination by federal or state banking authorities. If at any time the Depositary ceases to be eligible in accordance with the provisions of this Section 1003, it will resign immediately in the manner and with the effect specified in Section 1004.

**Section 1004. Resignation and Removal**.

(a) No resignation or removal of the Depositary and no appointment of a successor Depositary will become effective until the acceptance of appointment by the successor Depositary under Section 1005.

(b) The Depositary may resign at any time upon 10 business days' written notice to the other Parties. If an instrument of acceptance by a successor Depositary has not been delivered to the retiring Depositary within 30 days after the giving of such notice of resignation, the retiring Depositary may petition any court of competent jurisdiction for the appointment of a successor Depositary.

(c) The Depositary may be removed at any time by the Company upon 10 business days' written notice to the other Parties.

(d) The Depositary will be automatically removed on the occurrence of the Completion Date of the Project and the application of all moneys on deposit in the Acquisition Fund as provided in Section 706. No successor Depositary will thereafter be appointed and each reference to the Depositary in this Indenture and the Agreement will thereafter be ineffective.

(e) If the Depositary resigns or is removed (except as provided in subsection (d) of this Section 1004), the Company will promptly appoint a successor Depositary and give written notice of such appointment to the Issuer, the Purchaser and the retiring or removed Depositary.

**Section 1005. Successor Depositary**.

(a) Every successor Depositary appointed under this Indenture will execute, acknowledge and deliver to its predecessor and the other Parties an instrument accepting such appointment, and thereupon such successor Depositary, without any further act, will become fully vested with all the rights, and be subject to all the obligations, of its predecessor; but such predecessor will, nevertheless, on the request of its successor, the Issuer, the Company or the Purchaser execute and deliver an instrument transferring to such successor Depositary all the rights of such predecessor under this Indenture. Every predecessor will deliver all property, including all records relating hereto, and moneys held by it under this Indenture to its successor. The Issuer and the Purchaser will execute, acknowledge and deliver any instrument, satisfactory to each of them, required by any successor Depositary to more fully and certainly vest in such Depositary the rights vested in the predecessor Depositary by this Indenture.

(b) Notwithstanding any of the foregoing provisions of this Article, any Person qualified to act as Depositary under this Indenture with or into which the Person acting as Depositary may be merged or consolidated, or to which the assets and business of such Person may be sold, will automatically become the successor Depositary.

## ARTICLE XI – SUPPLEMENTS AND AMENDMENTS TO INDENTURE

**Section 1101. Other Supplemental Indentures**. This Indenture may be supplemented or amended only by one or more instruments executed by the Issuer, the Company the Purchaser and the Depositary.

**Section 1102. Consent of the Company**. Any supplemental indenture affecting the rights of the Company will not be effective unless and until the Company and, for so long as any obligations are outstanding under the Loan Agreement, the Bank, shall have consented in writing to the execution and delivery of such supplemental indenture. The written consent of the Issuer shall be required for any supplemental indenture.

## ARTICLE XII - MISCELLANEOUS PROVISIONS

**Section 1201. Notices**. Any notice, demand, direction, request, consent, report or other instrument authorized or required by any of the Bond Documents to be executed, given or filed (excluding Uniform Commercial Code filings, recordings and other governmental filings) will be in writing and will be deemed to have been sufficiently given or filed for all purposes of the Bond Documents when delivered by hand delivery or on the third Business Day following the day on which the same has been mailed by registered or certified mail, postage prepaid, addressed as follows:

If to the Issuer: City of Las Cruces, New Mexico

If to the Purchaser: Endurance Technologies USA Inc.

If to the Company: Endurance Technologies USA Inc.

If to the Depositary: BOKF, N.A.
Attn: Trust Department

Any Party may, by notice to each of the other Parties, designate any further or different addresses to which subsequent notices, certificates or other communications are to be sent. Receipt by the Issuer, the Company and the Depositary of a notice from a transferee of the Bond will constitute notice of such a different address for the Purchaser.

**Section 1202. Remedies**. No right or remedy conferred on any Party in any of the Bond Documents is intended to be exclusive of any other right or remedy conferred on such Party in any of the Bond Documents. Each such right or remedy is in addition to every other right or remedy provided in any of the Bond Documents, or any other applicable agreement or contract; provided, that the remedy of the Issuer or the Purchaser in respect of an Event of Default or other breach hereunder or any other Bond Document shall be limited in all cases to those expressly provided in Section 902 hereunder or Article VIII of the Agreement, as the case may be. No delay or omission of any Party to exercise any such right or remedy will impair any such right or remedy or be construed to be a waiver. Every such right or remedy may be exercised from time to time and as often as the relevant Party may deem expedient. No waiver by any Party of any right or remedy with respect to any default or Event of Default will extend to or affect any other existing or subsequent default or Event of Default.

**Section 1203. Beneficiaries**. Nothing in any of the Bond Documents expressed or implied is intended or is to be construed to confer upon any Person other than the Parties any right, remedy or claim, legal or equitable (except with respect to the School District for the PILOT under the Agreement).

**Section 1204. Severability**. In case any one or more of the provisions of any of the Bond Documents or of the Bond are for any reason held to be illegal or invalid, such illegality or invalidity will not affect any other provision of any of the Bond Documents or of the Bond, but the Bond Documents and the Bond will be construed and enforced as if such illegal or invalid provision had not been contained therein. In case any covenant, stipulation, obligation or agreement of the any Party contained in any of the Bond Documents or the Bond is for any reason held to be in violation of law, then such covenant, stipulation, obligation or agreement will be deemed to be the covenant, stipulation, obligation or agreement of such Party to the full extent permitted by law.

**Section 1205. Obligations of Issuer Not Obligations of Officials Individually**. No obligation under any of the Bond Documents or the Bond will be deemed to be an obligation of any present or future officer (including, without limitation, members of the City Council of the Issuer) or employee of the Issuer in his or her individual capacity, and no officer of the Issuer

who executes the Bond will be personally liable on the Bond or be subject to any personal liability or accountability by reason of the issuance of the Bond.

**Section 1206. Payments Due on Days That Are Not Business Days**. If the date for any payment called for under any of the Bond Documents or the Bond is not a Business Day, then such payment will be made on the next Business Day and no interest on such payment will accrue for the period after the scheduled date for such payment.

**Section 1207. Limitation of Issuer's Liability**. No agreements or provisions contained in any Bond Document nor any agreement, covenant or undertaking by the Issuer contained in any document executed by the Issuer in connection with any property of the Company financed, directly or indirectly, out of Bond proceeds or the issuance, sale and delivery of the Bond will give rise to any pecuniary liability of the Issuer, its officers, employees, agents or members of its governing body or constitute a charge against the Issuer's general credit, or obligate the Issuer financially in any way, except with respect to the Basic Rent, and its application as provided under this Indenture. No failure of the Issuer to comply with any terms, covenants or agreements in any Bond Document or in any document executed by the Issuer in connection with the Bond will subject the Issuer, its officers and members of its governing body to any pecuniary charge or liability except to the extent that the same can be paid or recovered from the Basic Rent. Without limiting the requirement to perform its duties or exercise its rights and powers under the Bond Documents upon receipt of appropriate indemnity or payment, none of the provisions of any Bond Document will require the Issuer to expend or risk its own funds or otherwise to incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers under any Bond Document.

**Section 1208. Successors**. Wherever a Party is referred to in this Indenture, it shall be deemed to include its successors, and all covenants and agreements in this Indenture will bind and inure to the benefit of the such Party's successors.

**Section 1209. Title, Headings**. The title and headings of the articles, sections and subdivisions of this Indenture have been used for convenience only and will not modify or restrict any of the terms or provisions of this Indenture.

**Section 1210. Consents and Approvals**. In any action requiring the consent or approval of a party to this Indenture, such consent or approval will not be unreasonably withheld.

**Section 1211. Execution in Counterparts**. Each of the Bond Documents may be executed in multiple counterparts, all of which taken together will constitute one instrument. Any Party may execute any of the Bond Documents by executing any such counterpart of such Bond Document.

**Section 1212. Applicable Law**. The validity, construction and effect of each of the Bond Documents will be governed by and construed in accordance with the laws of the State applicable to agreements made and to be performed in the State of New Mexico.

**Section 1213. No Violation of Public Policies Regarding Indemnity**. Notwithstanding any other term or condition of this Indenture, to the extent, if at all, that Section 56-7-1 NMSA 1978, as amended, is applicable to any agreement to indemnify, hold harmless, insure, or defend

another party contained herein or in any related documents, such agreement will not extend to liability, claims, damages, losses or expenses, including attorneys' fees, arising out of bodily injury to persons or damage to property caused by or resulting from, in whole or in part, the negligent act or omission of any indemnitee, its officers, employees or agents.

[Remainder of Page Intentionally Left Blank]

DATED AS OF DECEMBER 1, 2025.

CITY OF LAS CRUCES, NEW MEXICO

(Seal)

By_____
Its Mayor

Attest

_____
City Clerk/Treasurer

STATE OF NEW MEXICO )
)
COUNTY OF DOÑA ANA )

This instrument was acknowledged before me on _____, 2025, by_____, as Mayor of the City of Las Cruces, a political subdivision of the State of New Mexico.

_____
Notary Public

My commission expires:

_____

*[Signature Page for Indenture]*

[PURCHASER]
as Purchaser

By Endurance Technologies USA Inc., its sole member

By:_____
Name:
Its:

STATE OF _____ )
)
COUNTY OF _____ )

This instrument was acknowledged before me on _____, 2025, by _____ _____of Endurance Technologies USA Inc., sole member of Endurance Technologies USA Inc., a Delaware limited liability company.

_____
Notary Public

My commission expires:

_____

*[Signature Page for Indenture]*

ENDURANCE TECHNOLOGIES USA, INC.

By:_____
Name:
Its:

STATE OF _____ )
)
COUNTY OF _____ )

This instrument was acknowledged before me on _____, 2025, by _____ _____ of Endurance Technologies USA Inc., a Delaware corporation.

_____
Notary Public

My commission expires:

_____

*[Signature Page for Indenture]*

BOKF, N.A.,
as Depositary

By:_____
Name:_____
Its: _____

STATE OF NEW MEXICO )
)
COUNTY OF BERNALILLO )

This instrument was acknowledged before me on _____, 2025, by_____ _____ of BOKF, N.A. dba Bank of Albuquerque.

_____
Notary Public

My commission expires:

_____

*[Signature Page for Indenture]*

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EXHIBIT A
THIS BOND IS TRANSFERABLE ONLY UPON COMPLIANCE
WITH THE RESTRICTIVE TERMS PROVIDED BELOW

Bond

No: R-1

Principal Amount: Up to $17,600,000, c

United States of America
State of New Mexico

City of Las Cruces, New Mexico
Taxable Industrial Revenue Bond
(Endurance Technologies USA Inc. Project)
Series 2025

Registered Owner: [PURCHASER]

| FINAL MATURITY DATE | INTEREST RATE | ISSUE DATE |
|---|---|---|
| December 1, 2045 | 4% | Decemebr __, 2025 |

City of Las Cruces, a political subdivision of the State of New Mexico existing under the Constitution and laws of the State of New Mexico (the "Issuer"), for value received, promises (i) to pay, solely from the sources described below, to _____ [Purchaser] (together with its successors and assigns, and transferees as permitted below, the "Purchaser") so much of such amounts as have been advanced by the Purchaser to Endurance Technologies USA Inc. (the "Company") as Advances pursuant to the terms of the Indenture (as defined below) (the "Advances") and are outstanding in an amount of up to $17,600,000 (the "Aggregate Principal Amount"),) and (ii) to pay, solely from such sources, to the Purchaser, interest on principal amounts advanced with respect to this Bond from the dates of such Advances at the Interest Rate specified above (computed on the basis of a 360-day year consisting of twelve 30-day months) until payment of such principal amount.

This Bond is issued under and pursuant to the Constitution and laws of the State of New Mexico, particularly Sections 3-32-1 to 3-32-16, NMSA 1978, as amended, and under and pursuant to Ordinance No. _____ duly adopted by the Issuer on November 17, 2025.

The principal of, interest on and redemption price of this Bond are payable solely from Basic Rent derived by the Issuer from the Series Lease Agreement dated as of December 1, 2025 (the "Agreement") between the Issuer and the Company, which have been pledged and assigned by the Issuer to the Purchaser under the Series Indenture, dated as of December 1, 2025 (together with any amendments and supplements, the "Indenture") among the Issuer, the Purchaser, the Company and BOKF, N.A. dba Bank of Albuquerque, as Depositary (the "Depositary").

Reference is made to the Indenture and the Agreement for the provisions, among others, with respect to the custody and application of the proceeds of the sale of this Bond, the collection and disposition of income and other revenues, a description of the account charged with and pledged to the payment of the principal of, interest on and redemption price of this Bond, the nature and extent of the security, the terms and conditions under which this Bond is issued and amounts are to be advanced with respect to this Bond by the Purchaser, and the rights, duties and obligations of the Issuer, the Company, the Purchaser and the Depositary.

NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF NEW MEXICO OR OF ANY OF ITS POLITICAL SUBDIVISIONS, INCLUDING THE ISSUER, IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, INTEREST ON OR REDEMPTION PRICE OF THIS BOND. THE PRINCIPAL OF, INTEREST ON AND REDEMPTION PRICE OF THIS BOND WILL NEVER CONSTITUTE A DEBT OR INDEBTEDNESS OF THE ISSUER WITHIN THE MEANING OF ANY PROVISION OR LIMITATION OF THE CONSTITUTION OR LAWS OF THE STATE OF NEW MEXICO. THIS BOND WILL NEVER CONSTITUTE OR GIVE RISE TO A PECUNIARY LIABILITY OF THE STATE OF NEW MEXICO, ANY OF ITS POLITICAL SUBDIVISIONS OR OF THE ISSUER OR A CHARGE AGAINST THEIR GENERAL CREDIT OR TAXING POWERS.

This Bond may be called for redemption as provided in the Indenture, at the option of the Company as a whole or in part on any date selected by the Company, at a redemption price equal to the principal amount to be redeemed plus interest accrued on such principal amount to the redemption date.

If an Event of Default (as defined in the Indenture) occurs, the Purchaser may cause the then unpaid principal amount of this Bond and all accrued interest to be immediately due and payable as provided in the Indenture. Neither the Issuer nor the Depositary has any right or responsibility to act on behalf of the Purchaser with respect to any Event of Default.

This Bond may be transferred in whole but not in part. SUBJECT TO THE LAST PARAGRAPH OF SECTION 404 OF THE INDENTURE AND NOTWITHSTANDING ANY PROVISION OF THIS BOND TO THE CONTRARY, NEITHER THIS BOND NOR ANY INTEREST IN THIS BOND MAY BE, DIRECTLY OR INDIRECTLY, OFFERED, SOLD, HYPOTHECATED, ENCUMBERED OR OTHERWISE TRANSFERRED OR DISPOSED OF (INDIVIDUALLY AND COLLECTIVELY, A "TRANSFER") EXCEPT IN COMPLIANCE WITH SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), AND APPLICABLE STATE SECURITIES LAWS AS ESTABLISHED TO THE SATISFACTION OF THE ISSUER, AND ANY SUCH PURPORTED TRANSFER OF THIS BOND WILL NOT BE EFFECTIVE UNLESS THE TRANSFEROR PROVIDES TO THE ISSUER, THE DEPOSITARY AND THE COMPANY (A) AN OPINION, IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER, FROM LEGAL COUNSEL EXPERIENCED IN SECURITIES LAWS MATTERS, WHICH COUNSEL MUST BE SATISFACTORY TO THE ISSUER, TO THE EFFECT THE TRANSFER COMPLIES WITH THE ACT AND APPLICABLE STATE SECURITIES LAWS AND (B) WRITTEN REPRESENTATIONS FROM THE TRANSFEREE, IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER, NECESSARY TO ESTABLISH SUCH COMPLIANCE.

All acts, conditions and things required to happen, exist and be performed precedent to and in the issuance of this Bond and the execution of the Indenture have happened, exist and have been performed as so required.

The validity, construction and performance of this Bond are governed by the law of New Mexico applicable to agreements made and to be performed in New Mexico.

CITY OF LAS CRUCES, NEW MEXICO

By:_____
Mayor

Attest

_____
City Clerk/Treasurer

(Seal)

**SCHEDULE OF ADVANCES AND PAYMENTS**

| Date | Amount of Advance | Amount of Principal Payment or Redemption | Resulting Principal Amount | Notation Made By |
|---|---|---|---|---|

EXHIBIT B
PROJECT SITE

That certain property located at _____ Las Cruces, New Mexico and further described as follows:

EXHIBIT C

SERIES 2025
REQUISITION AND CERTIFICATE NO. _____

To: Endurance Technologies USA Inc., as Purchaser
BOKF, N.A. dba Bank of Albuquerque, as Depositary

The undersigned, pursuant to the Series Indenture dated as of December 1, 2025 (the "Indenture"), among City of Las Cruces, New Mexico (the "Issuer"), Endurance Technologies USA Inc. (the "Purchaser"), Endurance Technologies USA Inc. (the "Company") and BOKF, N.A. dba Bank of Albuquerque (the "Depositary"), requests on behalf of the Company, the disbursement of $_____ from the Acquisition Fund (as defined in the Indenture) to pay the following costs and expenses (or to reimburse the Company for payment of such costs and expenses) related to the Project (as defined in the Indenture) or to the issuance of the Bond (as defined in the Indenture):

| Amount | General Classification of Expenditure | Payee |
|---|---|---|
| $_____ | _____ | _____ |

The undersigned certifies that:

(1) obligations in the stated amounts were incurred for Related Costs (as defined in the Indenture) and are due and payable (or, if the Company is indicated as the payee, were duly paid by the Company) and that each item is a proper charge against the Acquisition Fund and has not been the subject of a previous withdrawal from the Acquisition Fund;

(2) to the best knowledge of the undersigned there has not been filed with or served upon the Issuer or the Company notice of any lien, right or attachment upon, or claim affecting the right of any such payee to receive payment of, the respective amounts stated in such requisition which has not been released or will not be released simultaneously with the payment of such obligation; and

(3) with respect to any item for payment for labor or to contractors, builders or materialmen, (i) the obligations stated have been properly incurred, (ii) such work was actually performed or such materials or supplies were actually furnished or installed in or about the Project, and (iii) either such materials or supplies are not subject to any lien or security interest or any such lien or security interest will be released or discharged upon payment of this requisition.

DATED: _____, _____

ENDURANCE TECHNOLGIES USA INC.

_____
Authorized Company Representative

EXHIBIT D
SERIES 2025
COMPLETION CERTIFICATE

The undersigned Authorized Company Representative, pursuant to Section 706 of the Series Indenture, dated as of December 1, 2025 (the "Indenture"), among City of Las Cruces, New Mexico, Endurance Technologies USA Inc., as Purchaser, Endurance Technologies USA Inc. (the "Company") and BOKF, N.A. dba Bank of Albuquerque, as Depositary, states that, except for specified amounts remaining in the Acquisition Fund for any specified Related Costs as described in Appendix A hereto incurred by the Company, but not now due and payable, the Project is complete and all costs of labor, services, materials and supplies in connection with the Project Property have been paid for or provisions have been made for their payment. After the transfer of remaining moneys in the Acquisition Fund to the Company pursuant to Section 706 of the Indenture, the Company will have sole responsibility for the payment of any Related Cost in excess of the amount specified to be retained in the Acquisition Fund.

Moneys set aside for payment of pending expenses equal $_____ and total disbursements equal $_____.

DATED: _____, ____.

ENDURANCE TECHNOLOGIES USA INC.

_____
Authorized Company Representative

EXHIBIT E
CERTIFICATE OF QUALIFIED INVESTOR

City of Las Cruces, New Mexico

BOKF, N.A. dba Bank of Albuquerque, as Depositary

Endurance Technologies USA Inc.

Re: City of Las Cruces, New Mexico
Taxable Industrial Revenue Bond
(Endurance Technologies USA Inc. Project), Series 2025

Please be advised that the undersigned is purchasing the captioned Bond (hereinafter referred to as the "Bond"). Such purchase is for the account of the undersigned, for the purpose of investment and not with a present intent for distribution or resale. In the event that the undersigned transfers such Bond, the undersigned shall comply with all provisions of the Indenture dated as of December 1, 2025 (as amended from time to time, the "Indenture"), among City of Las Cruces, New Mexico (the "Issuer"), Endurance Technologies USA Inc., as Purchaser, Endurance Technologies USA Inc. (the "Company") and BOKF, N.A. dba Bank of Albuquerque, as Depositary (the "Depositary"), as described in the Bond. The undersigned assumes all responsibility for complying with any applicable federal and state securities laws in such regard and must present to the Depositary, the Issuer and the Company a Certificate of Qualified Investor executed by the proposed transferee before such transfer will be effective.

The undersigned acknowledges that it is one of the following:

1. a bank as defined in Section 3(a)(2) of the Securities Act of 1933, as amended (the "Securities Act"), or savings and loan association or other institution as defined in Section 3(a)(5)(A) of the Securities Act, whether acting in its individual or fiduciary capacity; broker or dealer registered pursuant to Section 15 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"); insurance company as defined in Section 2(13) of the Securities Act; insurance company as registered under the Investment Company Act of 1940 or a business development company as defined in Section 2(a)(48) of that Act; Small Business Investment Company licensed by the U.S. Small Business Administration under Section 301(c) or (d) of the Small Business Investment Act of 1958; plan established and maintained by a state, its political subdivision, or any agency or instrumentality of a state or its political subdivision, for the benefit of its employees, if such plan has total assets in excess of $5,000,000; employee benefit plan within the meaning of the Employee Retirement Income Security Act of 1974 if the investment decision is made by a plan fiduciary, as defined in Section 3(21) of such Act, which is either a bank, savings and loan association, insurance company, or registered investment adviser, or if the employee benefit plan has total assets in excess of $5,000,000 or, if a self directed plan, with investment decisions made solely by persons that are accredited investors;

2. a private business development company as defined in Section 202(a)(22) of the Investment Advisers Act of 1940;

3. an organization described in Section 501(c)(3) of the Internal Revenue Code with total assets in excess of $5,000,000;

4. a natural person whose individual net worth, or joint net worth with that person's spouse, at the time of his purchase exceeds $1,000,000;

5. a natural person who had an individual income in excess of $200,000 in each of the two most recent years or joint income with the person's spouse in excess of $300,000 in each of those years and who reasonably expects reaching the same income level the current year; or

6. one or more of the following, as indicated, that it is acting for its own account or the accounts of other Qualified Institutional Buyers and that it in the aggregate owns and/or invests on a discretionary basis at least $100 million in securities of issuers that are not affiliated with the Company:

(a) an insurance company, as defined in Section 2(13) of the Securities Act;

(b) an investment company registered under the Investment Company Act of 1940, as amended, or any business development company as defined in Section 2(a)(48) of that Act;

(c) a Small Business Investment Company licensed by the U.S. Small Business Administration under Section 301(c) or (d) of the Small Business Investment Act of 1958;

(d) a plan established and maintained by a state, its political subdivision or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees;

(e) an employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974;

(f) a trust fund whose trustee is a bank or trust company and whose participants are exclusively plans of the types identified in Paragraph (d) or (e) above, and not a trust fund that includes as participants individual retirement accounts or H.R. 10 plans;

(g) a business development company as defined in Section 202(a)(22) of the Investment Advisers Act of 1940 (the "Investment Advisers Act");

(h) an organization described in Section 501(c)(3) of the Internal Revenue Code, a corporation (other than a bank as defined in Section 3(a)(2) of the Securities Act or a savings and loan association or other institution referenced in Section 3(a)(5)(A) of the Securities Act or a foreign bank or savings and loan association or equivalent institution), partnership or similar business trust; or

(i) an investment adviser registered under the Investment Advisers Act;

7. a dealer registered pursuant to Section 15 of the Exchange Act, acting for its own account or the accounts of other qualified institutional buyers, that in the aggregate owns and invests on a discretionary basis at least $10 million of securities of issuers that are not affiliated with the dealer, provided that securities constituting the whole or a part of an unsold allotment to or subscription by a dealer as a participant in a public offering shall not be deemed to be owned by such dealer; or

8. a dealer registered pursuant to Section 15 of the Exchange Act acting in a riskless principal transaction on behalf of a qualified institutional buyer; or

9. an investment company registered under the Investment Company Act, acting for its own account or for the accounts of other qualified institutional buyers, that is part of a family of investment companies which own in the aggregate at least $100 million in securities of issuers, other than issuers that are affiliated with the investment company or are part of such family of investment companies. "Family of investment companies" means any two or more investment companies registered under the Investment Company Act, except for a unit investment trust whose assets consist solely of shares of one or more registered investment companies, that have the same investment adviser (or, in the case of unit investment trusts, the same depositor), provided that, for purposes of this section:

(a) each series of a series company (as defined in Rule 18f-2 under the Investment Company Act) shall be deemed to be a separate investment company; and

(b) investment companies shall be deemed to have the same adviser (or depositor) if their advisers (or depositors) are majority-owned subsidiaries of the same parent, or if one investment company's adviser (or depositor) is a majority-owned subsidiary of the other investment company's adviser (or depositor);

10. an entity, all of the equity owners of which are qualified institutional buyers, acting for its own account or the accounts of other qualified institutional buyers; and

11. a bank as defined in Section 3(a)(2) of the Securities Act, any savings and loan association or other institution as referenced in Section 3(a)(5)(A) of the Securities Act, or any foreign bank or savings and loan association or equivalent institution, acting for its own account or the accounts of other qualified institutional buyers, that in the aggregate owns and invests on a discretionary basis at least $100 million in securities of issuers that are not affiliated with it and that has an audited net worth of at least $25 million as demonstrated in its latest annual financial statements, as of a date not more than 16 months preceding the date of sale in the case of a U.S. bank or savings and loan association, and not more than 18 months preceding such date of sale for a foreign bank or savings and loan association or equivalent institution;

12. any entity that is acquiring the Bond for the purpose of facilitating investment therein by "qualified institutional buyers" as defined under Rule 144A promulgated under the Securities Act; or

13. Endurance Technologies USA Inc., the parent thereof, or any affiliated entity.

The undersigned further acknowledges that (i) interest on the Bond is not exempt from gross income for federal income tax purposes, and (ii) an opportunity was available to obtain and that the undersigned has obtained all materials which were regarded as necessary to evaluate the merits and risks of investment in the Bond and after such evaluation, the undersigned understands and knows that investment in the Bond involves certain risks, including, but not limited to, those related to limited security and source for payment of the Bond and the probable lack of any secondary market for the Bond.

The undersigned acknowledges, warrants and represents that the undersigned is experienced in transactions such as those relating to the Bond and that the undersigned is knowledgeable and fully capable of independently evaluating the risks involved in investing in the Bond. The undersigned further acknowledges that neither the Issuer nor any of its officials, counsel, agents or consultants is responsible for any information contained in or omitted from the materials furnished, whether directly or by any other means, relating to the Bond and acknowledges that the undersigned will not look and has not looked to any of them to obtain such information on its behalf.

**[**Purchaser**]**

_____
By: _____
Title: _____

Address for Notices and
Payment of principal and interest:

_____
_____

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[PURCHASER]

CITY OF LAS CRUCES, NEW MEXICO

and

ENDURANCE TECHNOLOGIES USA INC.

---

**BOND PURCHASE AGREEMENT**

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Dated as of December __,__, 2025

Up to $17,600,000
City of Las Cruces, New Mexico
Taxable Industrial Revenue Bond
(Endurance Technologies USA Inc. Project)
Series 2025

Exhibit "C"

# BOND PURCHASE AGREEMENT

_____ (the **"Purchaser"**), the **CITY OF LAS CRUCES, NEW MEXICO** (the **"Issuer"**), and **ENDURANCE TECHNOLOGIES USA INC.** (the **"Company"**), agree:

**Section 1. Recitals.** The Issuer, the Purchaser, the Company and BOKF, N.A. dba Bank of Albuquerque, as depositary (the **"Depositary"**) have entered into a Indenture dated as of December __,__, 2025 (the **"Indenture"**). Pursuant to the Indenture, the Issuer will issue its Taxable Industrial Revenue Bond (Endurance Technologies USA Inc. Project), Series 2025 (the **"Bond"**), in the maximum principal amount, of up to $17,600,000. Capitalized terms used in this Bond Purchase Agreement (this **"Agreement"**) but not defined herein shall have the meanings assigned to such terms in the Indenture.

**Section 2. Purchase and Delivery.** On the basis of the representations and covenants contained in this Agreement and subject to the terms and conditions contained in this Agreement, the Purchaser will purchase the Bond from the Issuer and the Issuer will sell the Bond to the Purchaser. As consideration for the sale of the Bond, the Purchaser will make advances on the Bond at the times and under the conditions specified in Section 702 of the Indenture. The Issuer will deliver the Bond to the Purchaser as provided in Section 403 of the Indenture, or at such other time as is mutually agreeable to the Purchaser and the Issuer (the "**Closing Date**").

**Section 3. Issuer Representations.** The Issuer represents that, as of the date of this Agreement:

(a) Each of the representations of the Issuer in the Lease Agreement, dated as of December __,__, 2025 (the "**Lease**" and, together with the Indenture and this Agreement, the "**Bond Documents**"), between the Issuer and the Company, and the Indenture is true and correct as if made on and as of the date of this Agreement.

(b) Pursuant to Ordinance No. _____ duly adopted by the City Council of the Issuer on November 17, 2025 (the **"Bond Ordinance"**), the Issuer duly authorized and approved (i) the execution and delivery by the Issuer of the Bond Documents and the performance by the Issuer of its obligations under the Bond Documents, and (ii) the issuance, execution and delivery of the Bond. The Bond Ordinance has not been amended, modified or repealed.

**Section 4. Company Representations**. The Company represents that as of the date hereof:

(a) Each of the representations of the Company in the Lease is true and correct as if made on and as of the date of this Agreement.

(b) This Agreement and the Lease constitute legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency,

reorganization, moratorium or other similar laws affecting creditors' rights generally and general principles of equity.

(c) The Company is a Delaware corporation, duly incorporated, validly existing and in good standing under the law of the State of Delaware and is a duly registered foreign limited liability company authorized to do business in the State of New Mexico and has full legal capacity, right, power and authority to own the Company's properties and conduct the Company's business. The Company has full legal capacity, right, power and authority to execute and deliver this Agreement and the Lease, to provide for the operation and management of the Project Property, and to take any and all such action as may be required on its part to carry out, give effect to and consummate the transactions contemplated by this Agreement, the Indenture, and the Lease.

(d) Neither the execution and delivery of this Agreement, the Indenture and the Lease, nor the consummation of the transactions contemplated therein or the compliance with the provisions thereof, will conflict with, or constitute on the part of the Company a violation of, or a breach of or default under any material indenture, mortgage, commitment, note or other agreement or instrument to which the Company is a party or by which the Company is bound, or any material order, rule or regulation of any court or governmental agency or body having jurisdiction over the Company or any of its activities or properties. All consents, approvals, authorizations and orders of governmental or regulatory authorities (except as required under state securities laws) which are required for the Company's execution and delivery of, consummation of the transactions contemplated by and compliance with the provisions of this Agreement, the Indenture and the Lease have been obtained.

(e) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending or, to the best of the knowledge of the Company, threatened, against or affecting the Company, or the actions taken or contemplated to be taken by the Company, nor, to the best of the knowledge of the Company, is there any basis therefor, wherein an unfavorable decision, ruling or finding would materially adversely affect the business or financial condition of the Company, or the transactions contemplated by, or the validity or enforceability of, this Agreement, the Indenture or the Lease.

(f) No event has occurred and no condition exists which, upon issuance of the Bond, would constitute (or with the giving of notice or lapse of time, or both, would constitute) an Event of Default under the Lease.

(g) The Company is not in violation of any provisions of, or in default under any statute, indenture, mortgage, commitment, note or other agreement or instrument to which it is a party or by which it is bound, or any order, rule, regulation or decision of any court or governmental agency or body having jurisdiction over it or any of its activities or properties, which violation would materially and adversely affect its business or financial condition.

**Section 5. Purchaser Representations**. The Purchaser represents and acknowledges that, as of the date of this Agreement:

(a) The Purchaser is purchasing the Bond for its own account for investment and with no present intention of distributing or reselling the Bond or any interest in the Bond but without prejudice, however, to its right at all times to sell or otherwise dispose of all but not part of the Bond in compliance with the Securities Act of 1933, as amended, the regulations promulgated thereunder, applicable state securities laws and regulations and the terms of the Bond, upon receipt of appropriate investor representations, an opinion of counsel experienced in securities law matters and satisfactory to the Issuer and in accordance with the applicable terms of the Indenture; provided that the Purchaser may pledge the Bond to the Bank as security for the Company's obligations under the Financing Agreement.

(b) The Purchaser understands that the Bond is a special limited, and not general, obligation of the Issuer, is payable solely from the Basic Rent received under the Lease and from the security therefor as described in the Indenture but from no other sources. The Purchaser understands that the Bond is not secured by any obligation or pledge of any monies received or to be received from taxation or from the State or any political subdivision, taxing district, or municipality thereof (including, without limitation, the Issuer), and that the Bond will never represent or constitute a general obligation, debt or bonded indebtedness of the Issuer, the State, any political subdivision or municipality thereof, and that no right will exist to have taxes levied by the Issuer, the State, any political subdivision or municipality thereof, for the payment of principal of, premium, if any, and interest on the Bond. The Purchaser understands that payment of the Bond depends upon the general credit of the Company, and upon the security granted in the Indenture for the Company's obligations under the Lease. The Purchaser further acknowledges the priority of the Bank's lien on the Project Property under the Loan Agreement over the interest of the Issuer and over the security interest granted to the Purchaser under the Indenture.

(c) The Purchaser has been afforded the opportunity to discuss the business, assets and financial position of the Company with the officers, employees and auditors of the Company, and has received such information concerning the Company and its business, assets and financial position, and the Project (as defined in the Lease) as it deems necessary in making its decision to purchase the Bond.

(d) The Purchaser is duly and legally authorized to purchase the Bond, has such knowledge and experience in financial and business matters (including the ownership of municipal conduit obligations) as are required for, and is capable of, evaluating the merits and risks of its purchase of the Bond, is aware of the intended use of proceeds of the Bond, and understands that interest on the Bond is not excludable from gross income for federal income tax purposes.

(e) The Purchaser understands that neither the Issuer nor any of its officials, counsel, consultants or agents has undertaken to furnish any information with respect to the Company or to ascertain the accuracy of any information furnished to the Purchaser with respect to the Company, and the Purchaser has not requested or received any representations from the Issuer with respect to any such information, its accuracy or completeness. The Purchaser waives any requirement of due diligence in investigation or inquiry on the part of the Issuer, its officials, counsel, agents and consultants and all claims, actions or causes of action which the Purchaser may have from and after the date hereof against the Issuer, its officials, counsel, agents and

consultants growing out of any such action which any of the foregoing took, or could have taken, in connection with the authorization, execution, delivery, and sale of the Bond to the Purchaser or in connection with any statement or representation which induced the Purchaser to purchase the Bond.

(f) The Purchaser has received and reviewed copies of the Bond Documents and the Bond Ordinance.

(g) This Agreement constitutes the legal, valid and binding obligation of the Purchaser, enforceable against the Purchaser in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors rights generally and general principles of equity.

(h) The Purchaser has been informed by the Company and agrees that the Indenture has not been qualified under the Trust Indenture Act of 1939, and that the Bond (i) is not being registered or otherwise qualified for sale under (a) the Securities Act of 1933, as amended, or (b) the "Blue Sky" laws and regulations of any state, (ii) will not be listed on any stock or other securities exchange, (iii) will not carry a rating from any rating service and (iv) will not be readily marketable. The Purchaser has been informed by the Company and agrees that a legend will be placed on the Bond certificate or any other documents evidencing ownership of the Bond to the effect that it has not been registered under the Securities Act of 1933, as amended, or the applicable state **"Blue Sky"** laws and that it may only be transferred in compliance with the Indenture and applicable securities laws.

(i) The execution, delivery and performance of this Agreement by the Purchaser will not constitute a default under any other agreement by which the Purchaser is bound.

(j) The Purchaser acknowledges that its purchase of the Bond constitutes a transaction in a bond secured by the Indenture which is, among other things, a personal property security agreement, pursuant to which the Bond is offered and sold as a unit.

**Section 6. Indemnification**.

(a) The Company and the Purchaser will, jointly and severally, indemnify, defend and hold harmless the Depositary, as defined in the Indenture, each agent, attorney and employee of the Depositary, the Issuer, each City Council member, official, agent, attorney and employee of the Issuer and each person, if any, who has the power, directly or indirectly, to direct or cause the direction of the management and policies of the Issuer (each an **"Indemnified Party"** and, collectively, the **"Indemnified Parties"**) from and against any and all losses, claims, damages, liabilities, joint or several, or expenses related thereto arising out of or in connection with or caused by the authorization and issuance of the Bond; any offering, sale or resale of the Bond in violation of any federal or state securities laws; or by an untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact made to any person or caused by an omission or alleged omission of any material fact in connection with the Bond or the sale, resale or delivery thereof.

(b) In case a claim is made or any action is brought against one or more of the Indemnified Parties based upon the matters described in the preceding paragraph and in respect of which indemnity is sought against the Company or the Purchaser pursuant to the preceding paragraph, the Indemnified Party or Parties seeking indemnity shall promptly notify the Company and the Purchaser, in writing, and the Company or the Purchaser shall promptly assume or cause the assumption of the defense thereof, including the employment of counsel chosen by the Company or the Purchaser and approved in writing by the Issuer (provided, that such approval by the Issuer shall not be unreasonably withheld), the payment of all expenses (including reasonable counsel fees and expenses) and the right to negotiate and consent to settlement. If the Company and the Purchaser fail to assume or cause the assumption of the defense of such action or to retain counsel reasonably satisfactory to the Issuer within a reasonable time after notice of the commencement of such action, the reasonable fees and expenses of counsel retained by the Indemnified Party shall be paid by the Company or the Purchaser. If any Indemnified Party is advised in a written opinion of counsel that the defenses of such Indemnified Party should be handled by separate counsel, the Company or the Purchaser shall not have the right to assume or cause the assumption of the defense of such Indemnified Party, but the Company and the Purchaser shall be responsible for the fees and expenses of such separate counsel (the **"Separate Counsel"**) retained by such Indemnified Party. Notwithstanding, and in addition to, any of the foregoing, any one or more of the Indemnified Parties shall have the right to employ separate counsel with respect to any such claim or in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be paid by such Indemnified Party or Indemnified Parties unless the employment of such counsel has been specifically authorized in writing by the Company and the Purchaser. Neither the Company nor the Purchaser shall be liable for any settlement of any such action effected without the written consent of the Company or the Purchaser, but if settled with the written consent of the Company and the Purchaser or if there is a final judgment for the plaintiff in any such action with or without consent, the Company and the Purchaser will indemnify and hold harmless the Indemnified Parties from and against any loss or liability by reason of such settlement or judgment.

(c) In order to provide for just and equitable contribution in circumstances in which the indemnity provided for in this Section 6 is for any reason held to be unavailable to the Indemnified Parties in accordance with its terms, the Purchaser and the Company shall contribute to the aggregate losses, liabilities, claims, damages and expenses of the nature contemplated by this Section 6 incurred by the Indemnified Parties in such proportions as determined by a court having jurisdiction of the matter.

(d) The covenants and agreements of the Purchaser and the Company under this Section 6 are joint and several and shall survive the execution and delivery of this Agreement and the delivery of the Bonds .

**Section 7. Conditions**. The obligation of the Purchaser to purchase the Bond and the obligation of the Issuer to sell the Bond are subject to satisfaction of the following conditions precedent:

(a) The representations of the Issuer, the Purchaser and the Company in this Agreement will be true and correct on and as of the date the Bond is issued (**"Closing Date"**) as if made on and as of the Closing Date.

(b) As of the Closing Date, no Default (as defined in the Indenture) or Event of Default (as defined in the Lease) will have occurred and be continuing, and no event will have occurred and be continuing which, with the lapse of time or the giving of notice or both, would constitute a Default or Event of Default.

(c) On or before the Closing Date, all actions required to be taken as of the Closing Date in connection with the Bond, the Bond Ordinance and the Bond Documents by the Issuer, the Purchaser and the Company will have been taken, and the Issuer, the Purchaser and the Company will each have performed and complied with all agreements, covenants and conditions required to be performed or complied with by the Bond Ordinance and the Bond Documents.

(d) The Indenture will have been duly executed and delivered by the Issuer, the Purchaser and the Depositary. The Lease will have been duly executed by the Issuer and the Company. Each of the Bond Documents, the Bond Ordinance and all other official action of the Issuer relating to the Bond, the Project (as defined in the Lease) and the Bond Documents will be in full force and effect on the Closing Date and will not have been amended, modified or supplemented on or before the Closing Date.

(e) The Issuer, the Company and the Purchaser will have received the following, each dated the Closing Date:

(i) the approving opinion of Sutin, Thayer & Browne A Professional Corporation, substantially in the form of Exhibit A;

(ii) the opinion of counsel to the Company, substantially in the form of Exhibit B;

(iii) [reserved];

(iv) the opinion of counsel to the Purchaser, substantially in the form set forth in Exhibit C;

(v) a certificate of and with reference to the Issuer and signed by a duly authorized officer of the Issuer to the effect set forth in subsections (a) and (c) of this Section 7 with respect to the Issuer;

(vi) a certificate of and with reference to the Company signed by a duly authorized officer of the Company to the effect set forth in subsections (a), (b) and (c) of this Section 7;

(vii) a certificate of and with reference to the Purchaser signed by a duly authorized officer of the Purchaser to the effect set forth in (a) and (c) of this Section 7;

(viii) a certificate of the Depositary signed by a duly authorized officer of the Depositary to the effect that (a) he or she is an authorized officer of the Depositary; (b) the Indenture has been duly executed and delivered by the Depositary; (c) the Depositary has all necessary corporate powers required to execute, deliver and perform its obligations under the Indenture; and (d) to the best of his or her knowledge, the execution and delivery by the Depositary of the Indenture and the performance by the Depositary of its obligations under the Indenture will not conflict with or constitute a breach of or default under any law, administrative regulation, consent decree or any agreement or other instrument to which the Depositary is subject or by which the Depositary is bound;

(ix) such additional legal opinions, certificates, proceedings, instruments and other documents as any such party or Bond Counsel may reasonably request; and

(x) an investment intent letter from the Purchaser in the form of the Certificate of Qualified Investor attached to the Indenture.

If any conditions to the obligations of the Purchaser or the Issuer under this Agreement are not satisfied and if the satisfaction of such conditions is not waived by the Purchaser and the Issuer, then, at the option of the Purchaser or the Issuer, respectively in accordance with their interests (x) the Closing Date will be postponed for such period, not to exceed five business days, as may be necessary for such conditions to be satisfied or (y) the obligations of the Purchaser and the Issuer under this Agreement will terminate, and neither the Purchaser nor the Issuer will have any further obligations or liabilities under this Agreement.

**Section 8. Survival**. All agreements, indemnities, covenants and representations and all other statements of the Issuer, the Company and the Purchaser and their respective officers set forth in or made pursuant to this Agreement will survive the Closing Date and the delivery of and payment for the Bond.

**Section 9. Notices**. Any notice, demand, direction, request, consent, approval, report or other instrument authorized or required by any of the Bond Documents to be executed, given or filed will be in writing and will be deemed to have been sufficiently given or filed for all purposes of the Bond Documents when delivered by hand delivery or on the third Business Day following the day on which the same has been mailed by registered or certified mail, postage prepaid, addressed as follows:

If to the Issuer: City of Las Cruces, New Mexico

If to the Purchaser: {Purchaser].

If to the Company: Endurance Technologies USA Inc.

Any Party may, by notice to each of the other Parties, designate any further or different addresses to which subsequent notices, certificates or other communications are to be sent. Receipt by the Issuer and the Company of a Certificate of Qualified Investor in the form attached to the Indenture as Exhibit B, from a transferee of the Bond will constitute notice by the transferee of such a different address for the Purchaser.

**Section 10. Remedies**. Except as provided in Section 10, no right or remedy conferred on any party in this Agreement is intended to be exclusive of any other right or remedy. No delay or omission of any party to exercise any such right or remedy may be exercised from time to time and as often as the relevant party may deem expedient. No waiver by any party of any right or remedy with respect to any Default or Event of Default will extend to or affect any other existing or subsequent Default or Event of Default.

**Section 11. Severability**. In case any one or more of the provisions of this Agreement or of the Bond is for any reason held to be illegal or invalid, such illegality or invalidity will not affect any other provision of any of this Agreement or of the Bond, but this Agreement and the Bond will be construed and enforced as if such illegal or invalid provision had not been contained therein. In case any covenant, stipulation, obligation or agreement of the Issuer contained in this Agreement or the Bond is for any reason held to be in violation of law, then such covenant, stipulation, obligation or agreement will be deemed to be the covenant, stipulation, obligation or agreement of the Issuer to the full extent permitted by law.

**Section 12. Obligations of Issuer Not Obligations of Officials Individually**. No obligation under any of the Bond Documents or the Bond will be deemed to be an obligation of any present or future officer (including, without limitation, the City Council) or employee of the Issuer in his or her individual capacity, and no officer of the Issuer who executes the Bond will be personally liable on the Bond or be subject to any personal liability or accountability by reason of the issuance of the Bond.

**Section 13. Limitation of Issuer's Liability**. No agreements or provisions contained in this Agreement nor any agreement, covenant or undertaking by the Issuer contained in any document executed by the Issuer in connection with any property of the Company financed, directly or indirectly, out of the Bond proceeds or the issuance, sale and delivery of the Bond will give rise to any pecuniary liability of the Issuer, its officials, employees, agents, attorneys or members of its governing body or constitute a charge against the Issuer's general credit, or will obligate the Issuer financially in any way, except with respect to the Basic Rent available under the Lease and the Indenture provided by the Company and pledged to the payment of the Bond, and their application as provided under the Indenture. No failure of the Issuer to comply with any terms, covenants or agreements in this Agreement or in any document executed by the Issuer in connection with the Bond will subject the Issuer, its officials, employees, agents, attorneys and members of its governing body to any pecuniary charge or liability except to the extent that the same can be paid or recovered from the funds available under the Lease or the Indenture provided by the Company and pledged to the payment of the Bond. None of the provisions of the Bond Documents will require the Issuer to expend or risk its own funds or to otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers under the Bond Documents. Nothing in this Agreement will preclude a proper party in interest from seeking and obtaining, to the extent permitted by law, specific performance against

the Issuer for any failure to comply with any term, condition, covenant or agreement in any of the Bond Documents; provided, that no costs, expenses or other monetary relief will be recoverable from the Issuer except as may be payable from the funds available under the Lease or the Indenture provided by the Company and pledged to the payment of the Bond.

**Section 14. Title, Headings.** The title and headings of the articles and sections of this Agreement have been used for convenience only and do not modify or restrict any of the terms or provisions hereof.

**Section 15. Execution in Counterparts.** This Agreement may be executed in counterparts, all of which taken together will constitute one instrument.

**Section 16. Applicable Law.** The validity, construction and effect of this Agreement will be governed by the law of the State of New Mexico.

**Section 17. Expenses**. All costs and expenses relating to the preparation, issuance, delivery and sale of the Bond and the preparation, execution and delivery of the Bond Ordinance, the Bond Documents and all other agreements, documents and instruments related to the transactions contemplated by the Bond Documents, including the fees and expenses of Issuer's outside counsel relating to authorization, review, issuance and post-closing matters relating to the Bond and the Bond Documents, are to be paid by the Company.

**Section 18. Performance of the Parties.** The respective obligations of the parties hereunder are subject to the performance by each other party hereto of its own obligations hereunder.

**Section 19. Obligations of Issuer Not Obligations of Officials Individually**. All obligations of the Issuer under the Bond Documents and the Bond will be deemed to be obligations of the Issuer to the full extent permitted by the Constitution and laws of the State. No obligation under any of the Bond Documents or the Bond will be deemed to be an obligation of any present or future officer (including, without limitation, any member of the City Council) or employee of the Issuer in his or her individual capacity, and no officer of the Issuer who executes the Bond will be personally liable on the Bond or be subject to any personal liability or accountability by reason of the issuance of the Bond.

**Section 20. Expenses**. All costs and expenses relating to the preparation, issuance, delivery and sale of the Bond and the preparation, execution and delivery of the Bond Ordinance, the Bond Documents and all other agreements, documents and instruments related to the transactions contemplated by the Bond Documents, including the fees and expenses of Issuer's outside review counsel, are to be paid by the Company.

**Section 21. No Violation of Public Policies Regarding Indemnity**. Notwithstanding any other term or condition of this Bond Purchase Agreement, to the extent, if at all, that Section 56-7-1 NMSA 1978, as amended, is applicable to any agreement to indemnify, hold harmless, insure, or defend another party contained herein or in any related documents, such agreement will not extend to liability, claims, damages, losses or expenses, including attorneys' fees, arising out of bodily injury to persons or damage to property caused by or resulting from, in

whole or in part, the negligent act or omission of any indemnitee, its officers, employees or agents.

[Remainder of this page intentionally left blank]

DATED as of December __,___, 2025

[PURCHSER]

By Endurance Technologies USA Inc., its sole member

By: _____
Name: Harold
Title:

ENDURANCE TECHNOLOGIES USA INC.

By: _____
Name:
Title:

*[Signature Page for Bond Purchase Agreement]*

Exhibit “C”

ATTEST:

(Seal)

City Clerk/Treasurer

CITY OF LAS CRUCES, NEW MEXICO

Mayor

*[Signature Page for Bond Purchase Agreement]*

[Opinion of Bond Counsel]

December __,, 2025

| | |
|---|---|
| City of Las Cruces, New Mexico<br>Las Cruces, New Mexico | Endurance Technologies USA Inc.<br>Las Cruces , New Mexico |
| Purchaser . | BOKF, N.A. dba Bank of Albuquerque,<br>Albuquerque, New Mexico |

$17,600,000
City of Las Cruces, New Mexico
Taxable Industrial Revenue Bond
(Endurance Technologies USA, Inc. Project)
Series 2025

Ladies and Gentlemen:

We have acted as Bond Counsel in connection with the issuance and sale by the City of Las Cruces, New Mexico (the "Issuer") of its Taxable Industrial Revenue Bond (Endurance Technologies USA, Inc. Project) Series 2025 in the maximum principal amount, when considered together with the outstanding principal amounts of the Series 2025B Bond and the Series 2025C Bond, not to exceed $17,600,000 (the "Bond").

The Bond will bear interest on the outstanding principal amount at a per annum rate equal to [four percent (4%)]. Interest on the Bonds is payable each December __,___, beginning December __,___, 2026.

The Bond is subject to redemption prior to maturity as described in the Indenture dated as of December __,___, 2025 (the "Indenture") among the Issuer and Endurance Technologies USA Inc. (the "Purchaser"), Endurance Technologies USA, Inc. (the "Company") and BOKF, N.A. dba Bank of Albuquerque (the "Depositary").

The principal of, interest on and redemption price of the Bond are not general obligations of the Issuer but special obligations payable solely from the revenues pledged under the Indenture. Neither the faith and credit nor the taxing power of the State of New Mexico or of any of its political subdivisions or municipalities, including the Issuer, is pledged to the payment of the principal of, interest on or redemption price of the Bond. The principal of, interest on and redemption price of the Bond will never constitute a debt or indebtedness of the Issuer within the meaning of any provision or limitation of the constitution or laws of the State of New Mexico. The Bond will never constitute nor give rise to a pecuniary liability of the State of New Mexico,

any of its political subdivisions or of the Issuer or a charge against their general credit or taxing powers.

In connection with the issuance of the Bond we have examined (a) a certified copy of an ordinance passed by the City Council of the Issuer on November 17, 2025 authorizing the issuance of the Bond (the "Bond Ordinance"), pursuant to and under the provisions of Sections 3-32-1 through 3-32-16, New Mexico Statutes Annotated, 1978 Compilation, as amended (the "Act"); (b) the executed Bond; (c) executed counterparts of the Indenture, the Lease Agreement dated as of December __,___, 2025 (the "Agreement") between the Issuer and the Company and the Bond Purchase Agreement dated as of December __,___, 2025 (the "Bond Purchase Agreement" and, together with the Indenture and Agreement, the "Bond Documents") among the Purchaser, the Issuer and the Company; and (d) such other opinions, documents, certificates and letters as we deemed relevant in rendering this opinion. In rendering our opinion, we have relied upon the Issuer's Certificate dated as of December __,___, 2025 delivered in connection with the Closing of the Bonds and upon the representations and warranties of the Issuer contained in the Bond Documents and we have assumed the truth of all of the representations and warranties contained therein.

Based on such examination, in our opinion:

1. The Issuer has the power and authority, under the constitution and laws of the State of New Mexico, including the Act, to execute and deliver the Bond Documents, and to authorize, execute, issue and deliver the Bond.

2. The terms and provisions of the Bond and the Bond Documents comply in all respects with the requirements of the Act.

3. The Bond has been validly authorized, executed and issued in accordance with the law of New Mexico and represents the valid and binding special obligation of the Issuer.

4. The Bond Documents have been duly authorized, executed and delivered by the Issuer and, assuming due authorization, execution and delivery by the other parties to the Bond Documents, constitute legal, valid and binding obligations of the Issuer enforceable against the Issuer in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and general principles of equity.

5. Neither the offer nor sale of the Bond to the Purchaser pursuant to the Bond Documents is required to be registered under any federal or New Mexico securities law. The Indenture is not required to be qualified under the Trust Indenture Act of 1939, as amended.

6. The issuance and sale of the Bond to the Purchaser is not subject to Rule 15c2-12 of the Securities and Exchange Commission.

EXHIBIT A

In rendering the opinions set forth above we have relied upon the assumptions set forth below:

a. All statutes, judicial and administrative decisions, and rules and regulations of governmental agencies, constituting the law of New Mexico are generally available (*i.e.*, in terms of access and distribution following publication or other release) to lawyers practicing in New Mexico, and are in a format that makes legal research reasonably feasible..

We have no actual knowledge that the foregoing assumptions are false or that under the circumstances, would make our reliance on the foregoing assumptions unreasonable.

Our opinion in paragraph 4 above, insofar as it relates to the enforceability of the Indenture, is subject to the following qualifications:

(i) New Mexico law may require that notice of acceleration be given to the Company before foreclosure of the Indenture. Comer v. Hargrave, 93 N.M. 170, 598 P.2d 213 (1979).

(ii) Section 39-5-18 NMSA 1978 provides for a redemption period of nine months following a judicial foreclosure sale. However, Section 39-5-19 NMSA 1978 provides in part:

> . . . The parties to any such instrument may, by its terms, shorten the redemption period to not less than one month, but the district court may in such cases, upon a sufficient showing before judgment that redemption will be effected, increase the period of redemption to not to exceed nine months notwithstanding the terms of such instrument.

(iii) Section 42A-1-24(C) NMSA 1978 provides that a court which has heard and adjudicated a condemnation proceeding has the power over the condemnee's compensation to "make orders as the court deems necessary with respect to encumbrances, liens, rents, insurance and other just and equitable charges."

(iv) We express no opinion as to title to or the priority of any lien on or security interest in any real or personal property.

The foregoing opinions represent our legal judgment based upon a review of existing legal authorities that we deem relevant to render such opinions and are not a guarantee of a result. This letter is issued for the sole benefit of the above addressees and is issued for the sole purpose of the transaction specifically referred to herein. No person other than the above addressees may rely upon this letter without our prior written consent. This letter may not be

utilized by you for any other purpose and may not be quoted by you without or express prior written consent, except that this opinion may be included in the transcript of official record of proceedings relating to the issuance and sale of the Bond. Our engagement as Bond Counsel with respect to the issuance and sale of the Bonds terminates upon the date of this letter. We assume no obligation to review or supplement this letter subsequent to its date, whether by reason of a change in the current law, by legislative or regulatory action, by judicial decision or for any other reason

Very truly yours,

,

EXHIBIT A

[Opinion of Counsel to the Company]

_____, 2025

City of Las Cruces, New Mexico
Las Cruces, New Mexico

Endurance Technologies USA Inc.
Las Cruces, New Mexico

BOKF, N.A. dba Bank of Albuquerque,
Albuquerque, New Mexico

[Purchaser] .
Las Cruces, New Mexico

Ladies and Gentlemen:

We have represented Endurance Technologies USA, Inc. (the "Company") in connection with (i) the Lease Agreement dated as of December __,___, 2025 (the "Agreement") between the City of Las Cruces, New Mexico (the "Issuer") and the Company and (ii) the Bond Purchase Agreement (the "Bond Purchase Agreement") dated as of December __,___, 2025 among Endurance Technologies USA Inc. (the Purchaser"), the Issuer and the Company, pursuant to which the Purchaser has agreed to purchase the Issuer's Taxable Industrial Revenue Bond (Endurance Technologies USA, Inc. Project) Series 2025 in the maximum principal amount of up to $17,600,000 to be issued under the Indenture dated as of December __,___, 2025 (the "Indenture") among the Issuer, the Purchaser, the Company and the Depositary. We have reviewed executed copies of the Bond Documents (as defined below), and certificates of officers of the Company and public officials and we have made such other investigations of law and fact as we have deemed necessary. The Agreement, the Indenture and the Bond Purchase Agreement are referred to herein as the Bond Documents.

Based upon the foregoing, in our opinion:

1. The Company is a corporation duly incorporated, validly existing and in good standing under the laws of Delaware, is duly registered as a foreign limited liability company under the laws of New Mexico and has duly authorized the execution, delivery and performance of Agreement and the Bond Purchase Agreement.

2. The execution, delivery and performance by the Company of Agreement, the Indenture, and the Bond Purchase Agreement will not conflict with, contravene, violate or constitute a breach of or default under the articles of organization or operating agreement of the Company or any law, rule, regulation, ordinance, or, to our knowledge, based on a certificate of an officer of the Company, any order, consent, decree, agreement or instrument to which the Company is a party or by which it or its properties, including the Series 2025 Project Property as defined in the Agreement, is bound.

EXHIBIT B

3. All necessary authorizations, approvals, consents and other orders of any governmental authority or agency for the execution and delivery by the Company of Agreement and the Bond Purchase Agreement have been obtained and are in full force and effect.

4. There is no action, suit, proceeding, inquiry or investigation by or before any court, public board or body pending or, to our knowledge, threatened against the Company, which (i) seeks to or does restrain or enjoin the issuance or delivery of the Bond or the execution and delivery of any of the Bond Documents, (ii) in any manner questions the validity or enforceability of the Bond or any of the Bond Documents, or (iii) questions the authority of the Company to own or operate any of the Project Property, as defined in the Lease.

5. The Agreement, Indenture and the Bond Purchase Agreement have been duly authorized, executed and delivered and constitute legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and general principles of equity.

Very truly yours,

EXHIBIT B

[Opinion of Counsel to the Purchaser]

_____, 2025

City of Las Cruces, New Mexico
Las Cruces, New Mexico

Endurance Technologies USA, Inc.
Las Cruces, New Mexico

BOKF, N.A. dba Bank of Albuquerque
Albuquerque, New Mexico

Ladies and Gentlemen:

We have acted as counsel to Endurance Technologies USA Inc. (the "Purchaser") in connection with the Indenture dated as of December __,___, 2025 (the "Indenture") among BOKF, N.A. dba Bank of Albuquerque, as depositary (the "Depositary"), the City of Las Cruces, New Mexico (the "Issuer"), Endurance Technologies USA, Inc. (the "Company") and the Purchaser, and the Bond Purchase Agreement (the "Bond Purchase Agreement") dated as of December __,___, 2025 among the Purchaser, the Issuer and the Company, pursuant to which the Purchaser has agreed to purchase the Issuer's Taxable Industrial Revenue Bond (Endurance Technologies USA, Inc. Project) Series 2025 in the maximum principal amount of $17,600,000 to be issued under the Indenture. The Indenture, the Bond Purchase Agreement, and the Lease Agreement dated as of December __,___, 2025 between the Company and the Issuer are referred to herein as the "Bond Documents." In connection with this transaction, we have examined executed copies of the Bond Documents, certificates of officers of the Purchaser and certificates of public officials and have made such other investigations of law and fact as we have deemed necessary.

Based upon the foregoing, in our opinion:

1. The Purchaser is a limited liability company duly organized and validly existing and in good standing under the laws of Delaware.

2. The execution, delivery and performance by the Purchaser of the Indenture and the Bond Purchase Agreement will not conflict with, contravene, violate or constitute a breach of or default under the Articles of Formation or Operating Agreement of the Purchaser or any law, rule, regulation, ordinance, or, to our knowledge, based on a certificate of an officer of the Purchaser, any order, consent, decree, agreement or instrument to which the Purchaser is a party or by which it or its property is bound.

3. All necessary authorizations, approvals, consents and other orders of any governmental authority or agency for the execution and delivery by the Purchaser of the Indenture and the Bond Purchase Agreement have been obtained and are in full force and effect.

4. There is no action, suit, proceeding, inquiry or investigation by or before any court, public board or body pending or, to our knowledge, threatened against the Purchaser, which (i) seeks to or does restrain or enjoin the issuance or delivery of the Bond or the execution and delivery of any of the Bond Documents, or (ii) in any manner questions the validity or enforceability of the Bond or any of the Bond Documents.

5. The Indenture and the Bond Purchase Agreement constitute legal, valid and binding obligations of the Purchaser, enforceable against the Purchaser in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and general principles of equity.

This opinion has been delivered at your request for the purposes in connection with the Bond Documents. Without our prior written consent, this opinion is not to be utilized or quoted for any other purpose and no one other than you is entitled to rely thereon.

Very truly yours,

# City Council Action and Executive Summary

**3102; Council Bill 26-010**

**Type of Action:**
☐ **Resolution**
☒ **Ordinance**
☐ **TIDD Resolution**

| | | | |
|---|---|---|---|
| **District:** | ☒ 1 ☒ 2 ☒ 3 ☒ 4 ☒ 5 ☒ 6 ☐ N/A | | |
| **1st Reading:** | November 17, 2025 | **Adopted:** | December 1, 2025 |
| **Drafter:** | Sara Gonzales | **Department:** | Community Development |

**Title:** **AN ORDINANCE AMENDING CHAPTERS 34-38 OF THE LAS CRUCES MUNICIPAL CODE WITH THE CORRESPONDING ZONING MAP AS PRESENTED. (CASE NO. ZCA-25-01)**

**TYPE OF ACTION:** ☐ **Administrative** ☒ **Legislative** ☐ **Quasi-Judicial**

**PURPOSE(S) OF ACTION:**
To amend the Municipal Code.

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**
On February 18, 2025, the City Council adopted Ordinance 3090, known as Realize Las Cruces, which repealed Chapters 32 through 40 of the Las Cruces Municipal Code (LCMC) and redefined zoning designations for all properties within city limits. A referendum petition seeking to suspend the ordinance was filed with the City Clerk on March 19, 2025, placing the new code on hold pending review of the petition. On May 19, 2025, the City Council rejected the referendum, thereby enacting Realize Las Cruces.

Since its initial adoption in February, numerous community members have submitted applications through Community Development using Realize Las Cruces, taking advantage of the enhanced flexibility in development standards. As a result, staff have seen a rise in middle housing proposals, typically two to four units, targeting smaller, vacant, and irregularly shaped parcels within the urban core or infill area of the city.

Throughout the implementation process, we identified several standards that were either missing, difficult to enforce, or unworkable. Additionally, staff recognized that the zoning designations for several parcels needed to be revised for greater appropriateness. To address these issues, staff proposes targeted adjustments to each chapter and updated zoning map to better support and promote sustainable land development. These adjustments are listed below.

Chapter 34
Revised roles and responsibilities, expanded and clarified definitions pertaining to erosion control, fencing, rock wall structures, and group homes.

Chapter 35
Updated guidelines for notice procedures related to new builds, redevelopment, maintenance, and replacements.

Chapter 36

Revisions include clarified setback regulations and updates to the land use table. Adjustments address provisions for temporary construction yards, sober living facilities, indoor and outdoor entertainment venues, square footage limits for professional offices, and minimum lot size requirements for animal husbandry. Setback and easement guidelines for carports and accessory structures have also been updated. Standards for non-conforming uses were reviewed and revised.

Chapter 37
Changes to how minor subdivision plats are processed and how the subdivision master plan is structured.

Chapter 38
Updated rules about parks, including alternatives to land dedication and improvements. Outdoor lighting standards have been improved, and sign permit rules now cover more sign types.

The Planning and Zoning Commission (P&Z) reviewed the proposed minor amendments to the Development Code on October 28, 2025. During the discussion, the Commission provided a few recommendations for staff consideration, including modifying the garage setback to fifteen (15) feet in urban areas and allowing botanical gardens by right in the OS-1 and OS-2 districts. The P&Z recommended approval by a vote of 5-0-0 (two Commissioners absent) for the proposed amendments outlined in Attachment "A".

**SUPPORT INFORMATION:**
EXHIBIT "A" - LCMC Chapters 34-38
EXHIBIT "B" - ZONING MAP
ATTACHMENT "A" - LCMC Chapters 34-38 (redline version)

**PLAN(S):**
City Council Strategic Plan, Department Strategic Business Plan, Elevate Las Cruces

**COMMITTEE/BOARD REVIEW:**
P&Z

**DOES THIS AMEND THE BUDGET?:**
☐ Yes
☒ No

**Does this action amend the Capital Improvement Plan (CIP)?**
☐ Yes
☒ No

**OPTIONS / ALTERNATIVES:**
1. Vote "Yes"; this will approve the Ordinance and amend the current LCMC Chapters 34-38 and the corresponding zoning map.
2. Vote "No"; this will not approve the Ordinance and LCMC Chapters 32-38 and the corresponding zoning map will not be changed.
3. Vote to "Amend"; this would allow City Council to modify the proposed ordinance.
4. Vote to "Table"; this would postpone the decision to repeal the Ordinance and would allow City Council to provide further staff direction.

**ORDINANCE 3102; COUNCIL BILL 26-010**

**AN ORDINANCE AMENDING CHAPTERS 34-38 OF THE LAS CRUCES MUNICIPAL CODE WITH THE CORRESPONDING ZONING MAP AS PRESENTED. (CASE NO. ZCA-25-01)**

The City Council is informed that:

**WHEREAS**, the City adopted the Realize Las Cruces Development Code in February of 2025; and

**WHEREAS**, during the implementation process, we identified several standards that were either absent, impractical to enforce, or not feasible; and

**WHEREAS**, City Staff has made targeted adjustments to each chapter to better support and promote sustainable land development; and

**WHEREAS**, the Planning and Zoning Commission, after conducting a public hearing on October 28, 2025, recommended to approve the proposed amendments by a vote of 5-0-0 (two Commissioner absent).

**NOW, THEREFORE,** Be it Ordained by the Governing Body of the City of Las Cruces:

**(I)**

**THAT** Chapters 34-38 of the Las Cruces Municipal Code, as shown in Exhibit “A” and the Zoning Map as shown in Exhibit “B” attached hereto and made part of this Ordinance, are hereby amended and approved.

**(II)**

**THAT** City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

**DONE AND APPROVED this** day of

APPROVED

_____

ATTEST:

_____

**Moved by:**

**Seconded by:**

**AYES**

**NAYS**

# Chapter 34. Development Code General Provisions

## Sec. 34-1. Establishment

### A. Title

This Development Code of the City of Las Cruces, New Mexico, shall be known as, and may be cited as, the "Development Code," "Code," or "these regulations."

### B. Purpose

The purpose of this Development Code is to unify the City's land development regulations into a single document and to reduce repetition and conflict among various ordinances. Additionally, this Code is intended to implement the Comprehensive Plan, Active Transportation Plan, neighborhood blueprints, and all other City-adopted plans and policies.

### C. Authority and Jurisdiction

1. This Code is created and adopted in accordance with NMSA 3-17, 3-19, 3-20, 3-21, and 3-21A, as amended, and shall be applicable to all property within the corporate limits of the City, except for state and federal land.
2. State property, Doña Ana County property, the Las Cruces Public School District School Board property, New Mexico State University (Board of Regents), federal property, and property owned or controlled by any other governmental entity being utilized for public purposes shall be exempt from these regulations only when specific exemption is provided elsewhere by state or federal statute or court order. Such exemption shall not apply to local, state, or federal property that is not being used for public purposes. Governmental and private entities shall comply with the requirements of Section 3-19-11 NMSA.
3. This Code identifies certain administrative roles (e.g., Community Development Director) as approval authorities. The definition of each role indicates whether a designee of that person may be delegated authority. See **Sec. 34-5. Definitions**.

### D. Effective Date

The Effective Date of this Development Code shall be February 18, 2025.

### E. Transitional Provisions

The provisions of this section address development projects that were initiated prior to the Effective Date of this Development Code specified in **Sec. 34-1.D** above.

1. Generally
   a) For 8 months after the Effective Date, property owners/applicants shall have the option to follow codes as of the day before said effective date. This option shall be granted upon submittal of written notice, on a form approved by the Community Development Director, accompanying the submittal of an application authorized under this ordinance. If said submittal is not approved within 1 year of the effective date, the submittal shall be considered void and thereafter, any subsequent submittal shall follow the current code. No extensions will be approved after the 1-year approval deadline.
   b) Construction permits granted under the regulations in place before the Effective Date shall remain valid until their expiration. Projects with valid permits may be carried out in accordance with the regulations in effect at the time of their approval.
   c) The adoption of this Development Code shall not require any change in plans, construction, or designated use for which a permit or other official approval was granted before the Effective Date.

d) Vesting under previous regulations applies only within the zoning or subdivision processes. Subdivision vesting does not vest zoning-related applications; zoning vesting does not vest subdivision-related applications.

i) Example: Subdivision Process

An approved Master Development Plan (subdivision-related process) vests future subdivision submittals, as long as the approved Master Development Plan or Preliminary Plat does not expire.

ii) Example: Zoning Process

An approved PUD Concept Plan (zoning-related process) vests future zoning submittals, as long as the approved Concept Plan does not expire.

e) If an application expires or resubmittal is required for any other reason, the development must meet the standards in effect at the time of re-application.

f) An applicant who submitted a complete application that was ultimately approved may opt to use the more recent regulations for the remainder of the development project; however, that project is no longer eligible to use the older regulations at a later stage.

2. Completed Subdivision Applications

a) Complete applications for subdivision-related approvals (e.g., Master Development Plan, Preliminary Plat, Construction Plan, Final Plat) pending approval on the Effective Date will be reviewed wholly under the terms of the development regulations in effect immediately preceding the Effective Date.

i) Example: Master Development Plan for a Phased Development

If a complete Master Development Plan (MDP) application for a phased development project was submitted prior to the Effective Date and was ultimately approved, the entire development project may develop under the approved MDP and regulations in place at the time of the MDP submittal.

3. Completed Zoning Applications

a) Complete applications for zoning-related approvals (e.g., Planned Unit Developments, Site Plans, Special Use Permits, Zoning Variances, Building Permits) pending approval on the Effective Date may be reviewed wholly under the terms of the development regulations in effect immediately preceding the Effective Date.

i) Example: Concept Plan, Site Plan, and Building Permits for a Planned Unit Development

If a complete Concept Plan application for a Planned Unit Development (PUD) is submitted prior to the Effective Date and is ultimately approved, the City may approve a Site Plan and Building Permit that conform to the Concept Plan and comply with the regulations in place at the time of the Concept Plan submittal.

b) If a Building Permit was issued before the Effective Date (or a complete Building Permit application was submitted before the Effective Date and ultimately approved), the structure may be completed in conformance with the issued Building Permit and other applicable permits and conditions, even if such structure does not comply with provisions of this Code.

c) If the structure is not completed within the time allowed under the original Building Permit and any authorized permit extension, the structure may be constructed, completed, and occupied only if it complies with the regulations of this Code.

4. Transitions in Permitted Use Status

a) If a use is allowed by **Sec. 36-3.A. Permitted Uses**, it is considered a lawfully established and conforming use under this Code.

b) If a use existed as an allowed by-right use or an approved SUP on the Effective Date and it now requires an SUP in accordance with **Sec. 36-3.A. Permitted Uses**, it is considered to be a lawfully established and conforming SUP under this Code.

c) A lawfully established existing use that is not allowed by-right or by SUP in the district in which the use is located is considered a legally nonconforming use and is subject to all applicable regulations of **Sec. 36-5.G. Nonconformities**.

5. Violations

A violation of former regulations continues to be a violation under this Development Code and is subject to penalties and enforcement under **Sec. 34-1.H. Violations and Enforcement**, unless the use, development, construction, or other activity now complies with the provisions of this Development Code.

## F. Technical Manual and Other Technical Resources

This Development Code references a Technical Manual, which is maintained separately from this Code by the Development Review Committee. The standards contained within the Technical Manual apply to all development within the City's jurisdiction. This code also references several other technical resources that apply within the City, including (but not limited to) the latest editions of thoroughfare design manuals prepared by AASHTO, NACTO, ITE, FHWA, and related entities. These are the minimum standards required. Development shall follow these minimum standards and any City guidelines adopted by resolution, as amended.

## G. Fees

All fees shall be paid in accordance with the City's Fee Schedule, as adopted by the City Council. An application may be denied for failure to pay such fees.

## H. Violations and Enforcement

1. Duty to Enforce. The official(s) designated by the City Manager shall enforce this Development Code.
2. The City has the right to execute the following actions to remedy violations of this Development Code or noncompliance with approved plans in accordance with NMSA 3-17-1:
   a) Withhold or revoke permits or issue a stop-work order for any land, structure, or improvement;
   b) Seek injunctive relief to stop a violation;
   c) Seek a court order to remove a violation; or
   d) Other penalties and remedies as provided by law.
3. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violations may each be found guilty of a separate offense and be subject to penalties, remedies and enforcement actions.

## I. Interpretations

The Community Development Director is the responsible official for determining interpretations and meanings. The Director's determination may be appealed in accordance with **Sec. 34-3.F.2 Appeal of a Director Decision**.

## J. Conflicting Provisions

1. Conflict with State or Federal Regulations

Any provisions of U.S. or New Mexico State Law that impose a greater duty, standard, or requirement than those contained herein shall supersede the provisions of this Code.

2. Conflict within the Development Code or Other City Regulations
   a) Where the provisions of any local ordinance or regulation impose greater restrictions than those of this Development Code, generally, the provisions of such document shall prevail.

b) When two or more provisions of this Development Code are in conflict, generally, the most restrictive provision shall apply.

c) In either case, the Community Development Director shall have the authority, on a case-by-case basis, to determine which conflicting provisions of this Code and/or other local requirements shall be imposed.

3. Conflict with Private Agreements

This Development Code does not interfere with, abrogate, or annul any easement, deed restriction, covenant, or other agreement between private parties. The City's regulations supersede any private agreements, and the City will not recognize or enforce any private agreements.

## K. Severability

If any chapter, section, paragraph, sentence, phrase, or part of this Code is declared unconstitutional or otherwise invalid, the remaining portions shall not be affected.

## Sec. 34-2. Approval and Appeal Entities

### A. City Council

1. Establishment

   The City Council is established by Part I Charter, Article II of the Las Cruces Municipal Code.

2. Authority

   **Figure 34-2-1** summarizes the City Council's major roles and responsibilities within this Development Code.

### B. Planning & Zoning Commission

1. Establishment

   In accordance with NMSA 3-19-1, a Planning & Zoning Commission has been created by the City Council as stated in Chapter 2, Article IV, Division 2, Subdivision VI. Planning & Zoning Commission of the Las Cruces Municipal Code.

2. Authority

   **Figure 34-2-1** summarizes the Planning & Zoning Commission's major roles and responsibilities within this Development Code.

## C. Development Review Committee

1. Generally

   The Development Review Committee (**Error! Reference source not found.**) is a formal group of representatives employed by the City or its representatives empowered to act on behalf of their respective departments on development-related applications.

2. Composition

   a) Required Members

      i) Membership of the **Error! Reference source not found.** shall consist of one representative from each of the following departments (or their successor department(s)):

         a. Public Works Department;

         b. Community Development Department;

         c. Utilities Department;

         d. Fire Department;

         e. Parks & Recreation Department; and

         f. Up to two additional City Staff appointees as designated by the City Manager, with technical and management experience in urban design, advance and long-range planning, and sustainability related to public works, subdivision, major construction, and facility projects.

      ii) Department representatives shall be the Director or the Assistant Director (or equivalent title).

3. Authority

   **Figure 34-2-1** summarizes the **Error! Reference source not found.**'s major roles and responsibilities within this Development Code.

4. Meetings

   a) The **Error! Reference source not found.** shall meet as needed to review development-related issues and applications, as summarized in **Figure 34-2-1**. The notice of **Error! Reference source not found.** meetings shall appear in the public meeting schedule.

   b) The Community Development Director shall set the agenda for **Error! Reference source not found.** meetings and abide by all notification requirements pursuant to approved policy and the New Mexico Open Meetings Act (OMA).

   c) Minutes will be taken during **Error! Reference source not found.** meetings pursuant to approved policy and the New Mexico Open Meetings Act (OMA).

   d) When the **Error! Reference source not found.** provides a recommendation to another entity, the Community Development Director shall provide the meeting minutes or compile the comments and provide a summary report for the approval authority(ies).

## D. Summary of Approval Authorities

**Figure 34-2-1. Summary of Major Roles and Responsibilities** provides an overview of the primary approval responsibilities outlined in this Development Code.

**Figure 34-2-1. Summary of Major Roles and Responsibilities**

Note: Decisions within this table may be appealed in accordance with **Sec. 34-3.F. Appeals**.

| Section | Application/Plan Type | City Council | Planning & Zoning Commission | Development Review Committee | Community Development Director | Public Works Director | Other |
|---|---|---|---|---|---|---|---|
| General | | | | | | | |
| **Sec. 34-3.E** | Flexible Development Standards | | | | Decide | | |
| **Sec. 34-1.F** | Technical Manual | | | Update | | | |
| **Sec. 34-3.F.2.a)** | Appeal of a Director Decision: Planning-Related | | Decide | | | | |
| **Sec. 34-3.F.2.b)** | Appeal of a Director Decision: Engineering-Related | | | | | | Appeals heard by Arbitration Committee |
| **Sec. 34-3.F.3** | Appeal of a **Error! Reference source not found.** Decision | | Decide | | | | |
| **Sec. 34-3.F.4** | Appeal of a Planning & Zoning Commission Decision | Decide | | | | | |
| **Sec. 34-3.F.5** | Appeal of a City Council Decision | | | | | | Appeals heard by District Court |
| **Sec. 35-1.F.1** | Appeal of a Community Development Director Historic Preservation Decision | | | | | | Appeals heard by Historic Preservation Committee |
| **Sec. 35-1.F** | Appeal of a Historic Preservation Committee Decision | | Decide | | | | |
| **Sec. 34-3.I** | Development Code Amendments | Decide* | Recommend* | | | | |
| **Sec. 34-4.D** | Annexation | Decide* | Recommend* | Recommend | | | |
| Historic Preservation-Related | | | | | | | |
| **Sec. 35-2.D** | Cultural Property Designation | Decide | | | | | Historic Preservation Committee recommendation* |
| **Sec. 35-2.E** | Historic District Designation | Decide* | Recommend* | | | | Historic Preservation Committee recommendation* |
| **Sec. 35-3.A.2** | Certificate of Appropriateness | | | | Decide (minor) | | Historic Preservation Committee decision* (major) |
| **Sec. 35-3.C** | Demolition of Cultural Properties | Appeals | | | | | Historic Preservation Committee decision* |
| **Sec. 35-3.D** | Certificate of Economic Hardship | | | | | | Historic Preservation Committee decision* |
| Zoning Regulations-Related | | | | | | | |
| **Sec. 36-5.A** | Zoning Map Amendments | Decide* | Recommend* | | Recommend | | |

| Section | Application/Plan Type | City Council | Planning & Zoning Commission | Development Review Committee | Community Development Director | Public Works Director | Other |
|---|---|---|---|---|---|---|---|
| **Sec. 36-5.B** | Site Plans (except with SUP) | | | | Decide | | |
| **Sec. 36-5.C** | Special Use Permit (SUP) | | Decide* | | Recommend | | |
| **Sec. 36-5.D** | Planned Unit Development (PUD) Concept Plan | Decide* | Recommend* | Recommend | | | |
| **Sec. 36-5.D** | Planned Unit Development (PUD) Site Plan | | | | Decide | | |
| **Sec. 36-5.E** | Building Permits and Certificates of Occupancy | | | | | | Building Official |
| **Sec. 36-5.F** | Zoning Variance | | Decide* | | Recommend | | |
| Subdivision Regulations-Related | | | | | | | |
| **Sec. 37-3.A.4** | Master Development Plan | | Decide* | Recommend | | | |
| **Sec. 37-3.B** | Preliminary Plat | | Decide* | Recommend | | | |
| **Sec. 37-2.A** | Final Plat using the Alternate Summary Procedure (ASP) | | | | Decide | | |
| **Sec. 37-3.D** | Final Plat following an approved Preliminary Plat (i.e., Major Platting Process) | | | | Decide | | |
| **Sec. 37-3.D** | Final Plat without an approved Preliminary Plat (i.e., Minor Platting Process) | | Decide | Recommend | | | |
| **Sec. 37-2.E.5** | Right-of-Way Vacation | Decide* | | | Recommend | | |
| **Sec. 37-3.C.4** | Construction Plans | | | | Decide | | Affected departments and agencies to provide comments |
| **Sec. 37-4.C** | Acceptance of Public Improvements | | | | Decide | | Public Works, Utilities, and Parks & Recreation Directors must confirm completion |
| **Sec. 37-4.D.2** | Authorization of Substantial Completion | | | | Decide | | Affected departments and agencies must confirm agreement |
| Development Standards-Related | | | | | | | |
| **Sec. 38-2.C.1.a)** | Roadway Cross-Section Configuration | | | Decide | | | |
| **Sec. 38-2C.1.a)** | Roadway Dedication and/or Improvement Waiver | | | Decide | | | Appeal to City Council |
| **Sec. 38-2.D.4.b)** | Private Street Acceptance | Decide | Recommend | Recommend | | | City Attorney approval required |
| **Sec. 38-2.F.10.d)** | Driveway/Median Opening Permits | | | | | Decide | |
| **Sec. 38-2.G** | Traffic Impact Analysis | | | | | Decide | |
| **Sec. 38-2.I.6.c)** | Streetlights | | | | | Decide | |
| **Sec. 38-3.D.2.b)ix)** | Development Permits in Floodplain | | | | | | Floodplain Administrator decision |
| **Sec. 38-3.C.1.a)** | Master Drainage Study | | | | | Decide | |
| **Sec. 38-3.C.1.b)** | Final Drainage Study | | | | | Decide | |
| **Sec. 38-3.H.6** | Operation & Maintenance Plan | | | | | Decide | |
| **Sec. 38-5.D** | Park and Trail Dedication | | Decide | Recommend | | | |

| Section | Application/Plan Type | City Council | Planning & Zoning Commission | Development Review Committee | Community Development Director | Public Works Director | Other |
|---|---|---|---|---|---|---|---|
| **Sec. 38-6.E** and **Sec. 38-7.F** | Tree Mitigation Plan and Landscape Plan | | | | Decide | | |
| **Sec. 38-6.D.1** | Removal of Protected Trees | | | | Decide | | |
| **Sec. 38-9.K** | Outdoor Lighting Plan | | | | Decide | | |
| **Sec. 38-10.C** | Sign Permit | | | | Decide | | |
| **Sec. 38-10.J** | Common Signage Plan | | | | Decide | | |
| **Sec. 38-11.D** | Wireless Communication Facility | | | | Decide | | |

*Indicates a public meeting is required.

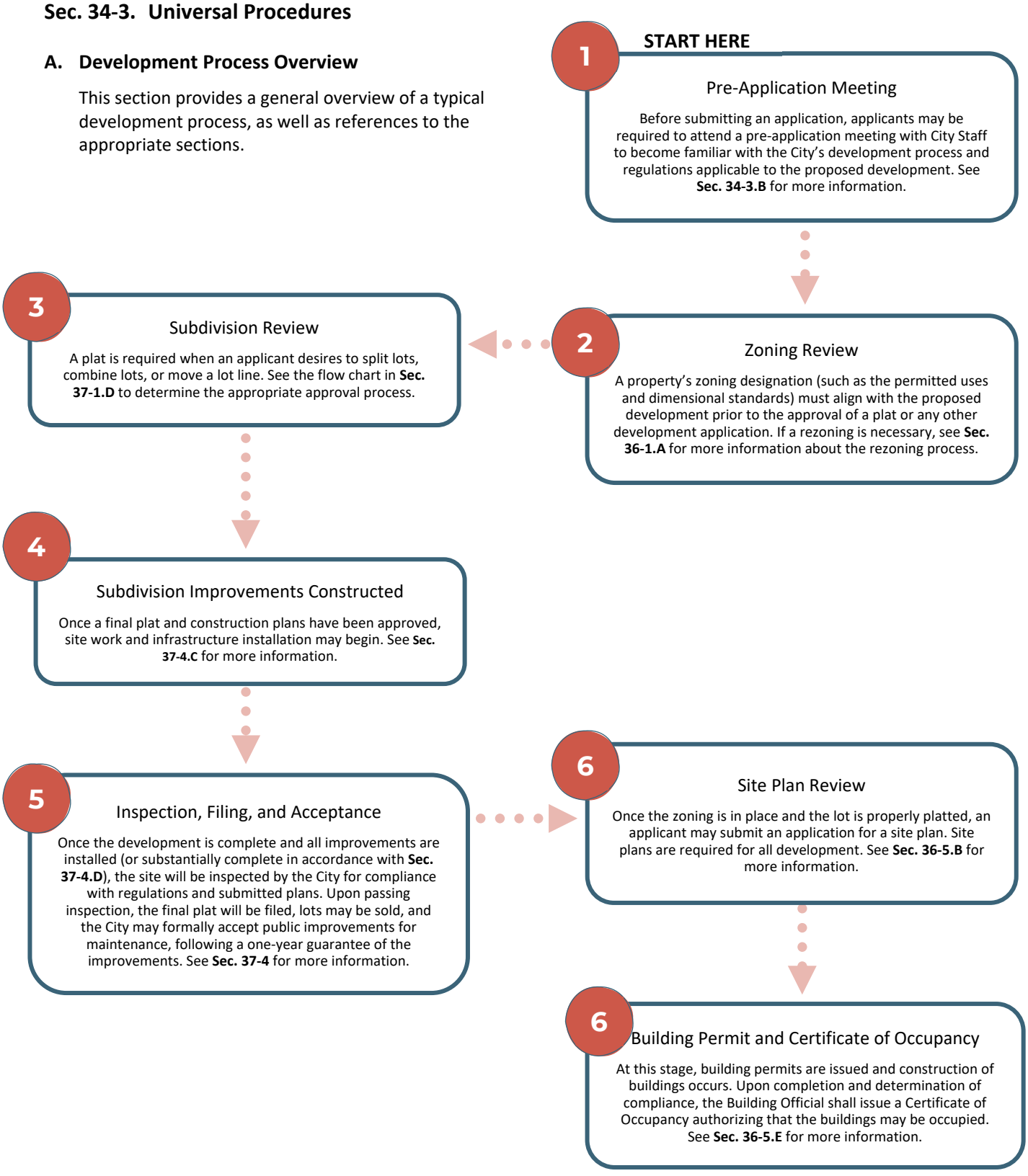
**Indicates a public meeting is required unless waived by the applicant in accordance with NMSA 3-20-7.

Note: All DRC meetings are advertised meetings open to the public to attend, during which the public is allowed to provide comments when recognized by the DRC Chairperson.

## Sec. 34-3. Universal Procedures

### A. Development Process Overview

This section provides a general overview of a typical development process, as well as references to the appropriate sections.



## B. Pre-Application Meeting

1. Purpose

   a) The pre-application meeting is intended to allow for the exchange of non-binding information between the applicant and City Staff to ensure that the applicant is informed of pertinent City development regulations and processes.

   b) The pre-application meeting provides an opportunity for the applicant and City Staff to discuss major development considerations such as utilities, roadways/traffic, drainage concerns, Comprehensive Plan conformance, specific neighborhood characteristics, and historical information.

   c) This exchange of information is intended to promote an efficient and orderly review process.

2. Meeting

   a) Prior to the submittal of any required plan or application, the applicant must consult with Community Development Department staff to determine whether a pre-application meeting is required for the type of application or plan being proposed. The Community Development Department staff will determine the appropriate City staff to attend the meeting.

      i) Pre-application meetings are always required for a PUD or SUP application.

   b) When a pre-application meeting is not required, the applicant may choose to participate in a voluntary pre-application meeting.

   c) If multiple applications are submitted requiring meetings with the same department, the respective department representative may allow one consolidated meeting.

   d) The applicant may be represented by their land planner, surveyor, engineer, or other designated agent.

3. Sketch Plan

   Although not required (except for a PUD or SUP), the property owner is encouraged to submit a Sketch Plan of the development for the pre-application meeting so that the Community Development staff can offer guidance and feedback before the submittal of a formal application to the City. Information and questions regarding utilities, roadways, drainage, and other development standards required by this Code should be considered to improve the effectiveness of this meeting.

## C. Application Processing

1. Initiation of Application

   a) Initiation by Owner or Owner's Agent

      i) Unless provided by this Development Code, any petition or application may be initiated only by the property owner, owner of an interest in the land, or by the owner's designated agent.

      ii) If the applicant is a designated agent, the application shall include a written statement from the property owner authorizing the agent to file the application on the owner's behalf.

      iii) The decision-maker (as identified by **Figure 34-2-1. Summary of Major Roles and Responsibilities**) may require the submission of documents, such as an affidavit from the owner, to provide evidence of ownership or agency.

   b) Initiation by City Manager

      The City Manager can initiate any application authorized under this Development Code.

2. Application Requirements

   a) Universal Application Contents

i) The City is hereby authorized to prepare application forms that include information requirements, checklists, architectural or engineering drawing sizes, applicant contact information, and any other information necessary to show compliance with City codes.

ii) All application forms are available from the Community Development Department and/or on the City's website.

iii) Applications shall be signed by all property owners (including all parties having an equitable interest, trustees of an estate, or all persons having a specific power of attorney) for the subject property, as recorded in the County Clerk's Office.

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

b) Universal Application Fees

i) Every application shall be accompanied by the prescribed fees set forth in the adopted Fee Schedule.

ii) Unless waived by City Council or permitted by the Fee Schedule, the prescribed fee shall not be refundable unless it was submitted in error.

3. Modification, Addition, or Waiver of Required Submittal Materials

a) The Community Development Director may require additional or modified information or provisionally waive planning-related application requirements following the pre-application meeting.

b) The Public Works Director and the Utilities Director may require additional or modified information or provisionally waive engineering-related application requirements following the pre-application meeting.

c) Examples of possible additional requirements and/or information could include but are not limited to a neighborhood group and/or noticed area meeting, traffic impact analysis, environmental analysis, detailed drainage analysis, etc.

d) Any request for additional or waived submittal requirements shall be justified in writing by the requesting entity.

4. Complete Application

a) Every required application shall be subject to a Determination of Completeness by the Community Development Director. The application shall only be accepted for processing when it is accompanied by all documents required by and prepared in accordance with the requirements of this Development Code.

b) A Determination of Completeness of an application shall be conducted in accordance with the following procedures:

i) If the submitted application is incomplete, the applicant shall be sent notification in writing.

a. Such notice shall be served by depositing it in the U.S. Postal Service or by electronic mail transmission.

b. The notification shall specify the documents or other information needed to complete the application and shall state the date the application will expire (see **Sec. 34-3.C.6. Application Expiration**) if the documents or other information are not provided to the City.

ii) If the application is determined to be complete, the application shall be processed as prescribed by this Development Code.

c) A typographical error shall not constitute an incomplete application.

d) A Determination of Completeness shall not constitute a determination of compliance with the substantive requirements of this Development Code. It is not guaranteed that an accepted, complete application will be approved if it is determined that the application does not comply with this Development Code.

e) If the application is resubmitted after a notification of incompleteness within the time allotted in **Sec. 34-3.C.6. Application Expiration**, the application shall be processed upon receipt of the resubmittal. If the information or documents submitted are not sufficient to enable the decision-maker to apply the criteria for approval, the application may be denied on such grounds.

5. Submittal of Multiple Applications

   An applicant may submit multiple requests at once so that all requests are reviewed simultaneously (e.g., Master Development Plan and Zoning Variance applications); however, applicants should be aware that required revisions to one application may require the resubmittal of other applications.

6. Application Expiration

   An application shall automatically expire at the close of business on the 45th calendar day after the application's submittal if the applicant fails to provide documents or other information necessary to comply with the City's requirements. The applicant must restart the application process if all required materials have not been provided within 45 days.

7. Application Extension

   The Community Development Director may extend the expiration of an application only when unique circumstances are present and additional time is needed for an applicant to provide documents or information to complete an application. Any extension shall be documented in writing, and the extension shall not exceed 180 days.

8. Modification of Complete Applications

   a) Modifications Requested by the City

      If revisions are requested by the City, and the modification is received at least 10 business days prior to the scheduled decision on the application, then the application shall be decided in accordance with the original schedule.

   b) Modifications Not Requested by the City

      Unless otherwise specified, when an applicant chooses to revise a submitted application, a new application must be submitted and the process restarted.

9. Submittal of Previously Decided Applications

   After the final decision on an application, the same (or substantially similar as determined by the Community Development Director) application shall not be submitted again until six months after the decision-maker's action.

10. Administrative Review

    a) Applications shall be submitted to the Community Development Director unless otherwise stated, who will distribute the submittal to applicable City departments and agencies for review. Each department shall complete the review and provide written comments to the Community Development Director.

    b) Each required department shall prepare and submit one set of consolidated comments to the Community Development Director. The Community Development Director shall compile the comments and provide the comments to the applicant for revisions.

    c) Whenever comments received by the City departments are in conflict, the Community Development Director will determine the appropriate procedure to be followed, utilizing the Development Review Committee where appropriate, in order to resolve said conflict or disagreement.

    d) The application shall be resubmitted and reviewed until the provisions of the Code are met and the submittal is recommended or approved, as applicable.

    e) The Community Development Director may opt to defer any application to the Planning & Zoning Commission.

f) When the Community Development Director is responsible for providing a recommendation, the Community Development Director shall prepare a report including comments and the reason(s) for the recommendation.

## D. Notice of Decision

Upon a final decision by the Planning & Zoning Commission or City Council, the Community Development Department shall promptly:

1. Prepare a written decision that includes an order and a statement of the factual and legal basis for the order and file the written decision with the City Clerk. Also, this document shall state the requirements for filing an appeal.
2. Make the written decision publicly available, which may include posting the document on the City's website.

## E. Flexible Development Standards

1. Purpose

   a) The purpose of this section is to establish a three-tier system to allow flexibility in certain planning-related development standards (e.g., setbacks) that are part of a building permit or business registration request. The City Council grants the Community Development Director administrative discretion to allow limited departures that are generally considered insignificant from certain planning-related development standards.

   b) This section does not apply to development standards associated with signs and lighting, which require Zoning Variance. See **Sec. 36-5.F. Zoning Variances** for requirements.

2. Application Procedures

   An applicant requesting a departure from a planning-related development standard shall file a complete application, including the development statement that includes the following:

   a) Official building permit or business registration application,

   b) Submittal fee,

   c) Notarized affidavit,

   d) Copy of property's survey and legal description,

   e) Copy of site plan, if applicable, (requirements to be detailed),

   f) Description and justification of requested departures from standards,

   g) Request and justification to waive submittal requirements, and

   h) An application that meets the following conditions:

      i) The application shall be signed by all property owners of record (including all trustees of an estate or all persons that have a specific "power of attorney" for the subject property as recorded in the County Clerk's office). Persons who have an equitable interest in the subject property, but no legal title, shall not be deemed the "owners of record" of said property for purposes of this Code.

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

      iii) The Community Development Director may reject any application if the ownership of the subject property is not clearly established.

3. Tier System

   a) Tier 1

      A request of up to a 25 percent departure from a planning-related development standard may be granted by the Community Development Director. Minimum lot area/width/depth departures may be granted as

necessary to prevent a taking of property as well as requests that are a result of governmental action (e.g., right-of-way acquisition).

b) Tier 2

A request for more than 25 percent and up to the following maximum departures from planning-related development standards may be granted by the Community Development Director. However, the Director is required to negotiate with the applicant to receive on behalf of the public one or more benefits (e.g., additional landscaping for reduced setbacks) deemed equivalent to the requested departure from standard.

Types of departure requests:

i) Setbacks/bufferyards/screens: 100 percent.

ii) Landscaping: 33 percent (from 15 percent to ten percent area coverage).

iii) Parking and all other requests not excluded in **Sec. 34-3.E.1.b)** above: 50 percent.

(See other parking flexibility options in **Sec. 38-2.N.4. Minimum Off-Street Vehicular Parking Requirements**.)

c) Tier 3

A request for deviations from planning-related development standards for properties located within the Metropolitan Redevelopment Area (MRA) in the Urban Zoning designations may be granted the following by the Community Development Director.

i) Setbacks/buffer yards/screens: 100 percent.

ii) Landscaping: 75 percent (from 15 percent required area coverage).

iii) Outdoor Lighting: Compliance with lighting may be extended up to one year if there are no safety concerns.

iv) Parking: Exempt in the Urban area.

Building Permit Fees: Urban Core may request reimbursement for building permit fees for vacant and redeveloped properties.

4. Notice of Request

The Community Development Director shall decide the appropriate surrounding property owners to be contacted by regular mail before acting on a request. Written comments about the request shall be delivered to the community development department to be considered by the Community Development Director within 10 business days of the date the notice of the request was mailed.

5. Action on the Request

Within ten working days after mailing the notice of the request to surrounding property owners, the Community Development Director shall act on the request.

6. Notice of Decision

The surrounding property owners that were contacted about the request and the applicant will be notified in writing about the decision on the request. The Community Development Director, for any reason, may require an applicant to follow the procedures for a Zoning Variance outlined in **Sec. 36-5.F. Zoning Variances**.

7. Appeal

Any person aggrieved by a determination of the Community Development Director may appeal the decision in accordance with **Sec. 34-3.F. Appeals**.

## F. Appeals

1. Application Requirements

a) Who May Appeal

Any person, department, committee, commission, board, or bureau that is affected by a final decision of an administrative official, committee, or board in the administration or enforcement of this Development Code may appeal the decision.

b) Written Statement

All appellants shall submit to the Community Development Department a detailed written statement of the grounds of their appeal, including findings. The appeal shall state all issues to be considered. Only the issues stated shall be considered during the applicable proceeding.

c) Timing for Filing Appeal

An appeal shall be filed no later than 15 calendar days after the decision (or 30 calendar days for appeals to the District Court in accordance with NMSA 39-3-1), and after all other procedures established by this Code have been exhausted.

d) Fees

Fees shall be assessed to the appellant person or persons in order to cover the costs of such appeal. Such fees shall be as prescribed in the Fee Schedule as adopted and amended.

e) Stay of Proceedings

An appeal shall stay all proceedings in furtherance of the action appealed unless the officer, official, commission, committee, or board from whom the appeal is taken certifies that by reason of facts, a stay would cause imminent peril of life and property. Upon certification, the proceedings shall not be stayed except by order of District Court after notice to the official, commission, committee, or board from whom the appeal is taken.

2. Appeal of a Director Decision

a) Planning-Related Issues

i) Planning-related issues are issues related to, but not limited to, lot configuration or dimensions, street network, right-of-way requirements, land use, density, phasing of development, suitability of location, or other issues determined by the Community Development Director to be planning-related.

ii) Appeals shall be resolved by the Planning & Zoning Commission. The Planning & Zoning Commission, by a majority vote of a quorum of the Commission, may, after all other procedures established by this section have been exhausted, reverse or affirm any order, requirement, decision, or determination of a Director.

b) Engineering-Related Issues

i) Engineering- or utility-related opinions are related to, but not limited to, design specifications for roadways, grading, drainage, utilities, or other issues determined by the Community Development Director and/or the Public Works Director to be engineering-related.

ii) Appeals of engineering-related issues shall be resolved by arbitration. The Arbitration Committee shall consist of three engineers licensed to practice in the state who are not associated with the City but are familiar with its development standards. The City shall choose one engineer, the applicant shall choose the second engineer, and the two chosen engineers shall choose the third.

iii) The Arbitration Committee shall review the engineering- or utilities-related issue under question and any pertinent information within 30 calendar days of the appeal submittal. The appellant shall be responsible for all costs associated with the Arbitration Committee.

iv) Action from the Arbitration Committee shall be in the form of approval or disapproval. Action from the arbitration committee shall be final unless appealed to the state board of registration for professional engineers and surveyors or to a court of competent jurisdiction.

3. Appeal of a **Error! Reference source not found.** Decision to the Planning & Zoning Commission

   The Planning & Zoning Commission, by a majority vote of a quorum of the Commission, may, after all other procedures established by this section have been exhausted, reverse or affirm any order, requirement, decision, or determination of the Development Review Committee.

4. Appeal of a Planning & Zoning Commission Decision to the City Council

   The City Council, by a majority vote of all its members, may, after all other procedures established by this section have been exhausted, reverse or affirm any order, requirement, decision, or determination of the Planning & Zoning Commission.

5. Appeal of a City Council Decision to District Court

   The decision of the City Council may be appealed to District Court in accordance with NMSA 39-3-1.

6. Appeal of a Historic Preservation Decision

   Appeals of Historic Preservation decisions shall be in accordance with **Sec. 35-1.F. Appeals**.

## G. Notice for a Public Meeting

When a public meeting before the Planning & Zoning Commission or City Council is required by these regulations, notice shall be provided as follows.

1. Notice of Public Meeting Agenda

   The agenda for the public meeting shall be made available no later than 15 calendar days prior to the public meeting.

2. Posted Sign Notice

   a) At least 15 calendar days prior to the public meeting, notice of the proposed development shall be posted in conspicuous places on the subject property by the property owner, applicant, or representative.

   b) A sign measuring four feet by four feet shall be used and secured with appropriate supporting hardware made available by the Community Development Director. When the property has multiple street frontages, one sign per frontage shall be posted. Large properties may require a greater number of signs, which shall be determined by the Community Development Director.

   c) It shall be the responsibility of the property owner, applicant, or representative to ensure continuous visible posting until a final determination is made on the proposal, regardless of the number of reviewing entities involved. In that multiple reviewing entities may be involved, the Community Development Director will inform the property owner, applicant, or representative of necessary changes needed on the sign to reflect the appropriate reviewing entities, meeting dates, and venues.

   d) In the event that notification signs were issued for a case under appeal, the property owner and/or original applicant shall ensure that all signs previously erected for notice purposes remain up until a decision on the appeal is rendered. Modification to and/or replacement of said signs shall be authorized and directed by the Community Development Director to ensure appropriate information regarding the appeal venue is displayed.

   e) Signs must be removed by the property owner, applicant, or representative within one week of the final decision.

3. Mailed Notice

   a) Certified Mailed Notice for Changes Affecting One Block or Less

      Whenever a change is proposed for an area of one block or less, notice of the public meeting shall be mailed by certified mail, return receipt requested, to the owners, as shown by the records of the County treasurer, of lots of land within the area proposed to be changed by a regulation and within 100 feet, excluding public right-of-way, of the area proposed to be changed by regulation.

b) Non-Certified Mailed Notice for Changes Affecting More than One Block

Whenever a change is proposed for an area of more than one block, notice of the public meeting shall be mailed by first class mail to the owners, as shown by the records of the County treasurer, of lots of land within the area proposed to be changed by a regulation and within 500 feet, excluding public right-of-way, of the area proposed to be changed by regulation.

c) If the notice is returned undelivered, the zoning authority shall attempt to discover the owner's most recent address and shall remit the notice by certified mail, with a return receipt requested, to that address.

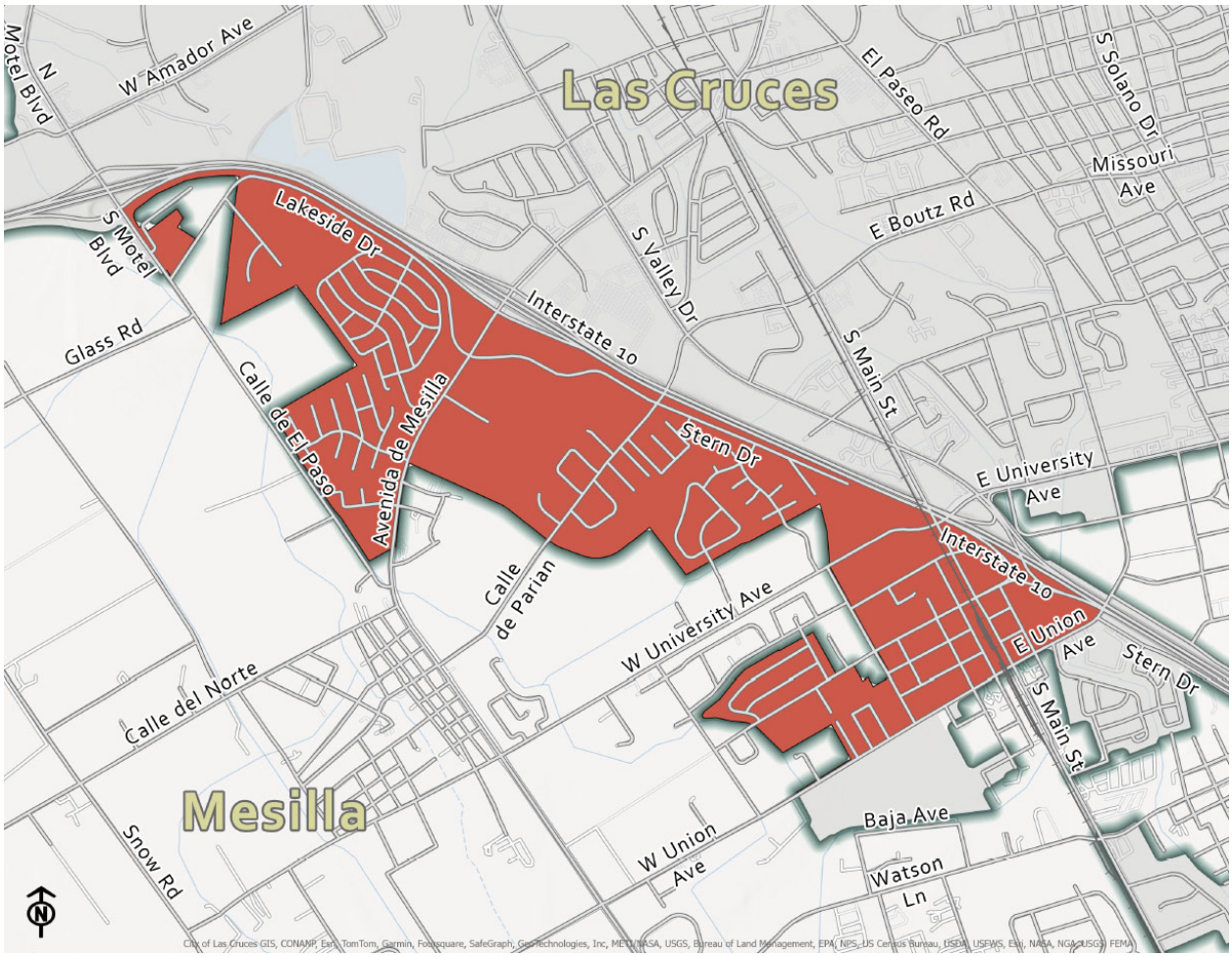
4. Published Notice

Notice of the time and place of the public meeting shall be published at least 15 calendar days prior to the public meeting in a newspaper of general circulation in the City.

5. Special Notice of Planning & Zoning Commission Cases

The Community Development Director shall provide notification, by certified mail, to the Town of Mesilla of all cases presented to the Planning & Zoning Commission for properties located in the area shown in **Figure 34-3-1. Town of Mesilla Special Notification Area Map**.

**Figure 34-3-1. Town of Mesilla Special Notification Area Map**



### H. Early Notification and Meeting Requirements

1. Purpose

   Early notification and meeting requirements are established to provide a courtesy notice to potentially affected community members regarding a proposed development or action prior to the application's submittal.

2. Applicability

   Any application for a rezoning of more than one acre or any development that requires a Master Development Plan shall meet the requirements herein.

   a) Exception: Subdivisions that meet all requirements of the Development Code are not subject to these requirements.

3. Requirements and Notification

   a) The applicant shall facilitate a meeting with the public, providing details of the plan or project seeking approval. The applicant shall secure a meeting facility in a location within the City as close as practical to the project site.

   b) Details of the meeting location, date, and time shall be provided to the City at least 15 business days before the meeting. The City will mail notice to all property owners and registered neighborhood groups within 500 feet of the subject property at least 10 business days before the meeting.

### I. Amendments to this Development Code

1. Petitions for Amendments

   a) Any person or corporation having a proprietary interest in any property may petition the City for an amendment to this Development Code's text.

   b) The Planning & Zoning Commission may, on its own motion or on request from the City Council, study and propose amendments for the City Council's consideration.

2. Planning & Zoning Commission Recommendation

   The Planning & Zoning Commission shall provide a recommendation regarding proposed Development Code amendments following a recommendation by the Development Review Committee and a public meeting held in accordance with **G. Notice for a Public Meeting**.

3. City Council Decision

   Following Planning & Zoning Commission recommendation, the City Council shall decide on the proposed Development Code amendments following a public meeting held in accordance with the City Clerk's typical time frames and processes.

4. Zoning Map Amendments

   Zoning Map amendments (i.e., "rezonings") follow a different process in accordance with NMSA 3-21-6. See **Sec. 36-5.A. Zoning Map Amendments** for more information.

## Sec. 34-4. Annexation Process

### A. Annexation Purpose

The purpose of an annexation is to redesignate property outside the City as being within the City limits thereafter. Annexations can be used to maintain a unified urban area and to promote orderly growth by utilizing City services.

### B. Annexation Process

In accordance with NMSA 3-7-1, there are three methods of annexing territory into a municipality:

1. The arbitration method (NMSA 3-7-5 through 3-7-10);
2. The boundary commission method (NMSA 3-7-11 through 3-7-16); and
3. The petition method (NMSA 3-7-17).

## C. Submittal of an Annexation Application

1. Following a pre-application meeting (see **Sec. 34-3.B. Pre-Application Meeting**) and any required early notification (see **Sec. 34-3.H. Early Notification and Meeting Requirements**), an applicant may submit the annexation application.
2. The annexation application and supplemental material shall be submitted to the Community Development Department no later than 25 calendar days prior to the day of the next regular meeting of the Planning & Zoning Commission for consideration.
3. Applications shall be subject to a Determination of Completeness as outlined in **Sec. 34-3.C.4. Complete Application**.
4. The applicant shall submit the following items and all related checklist materials for consideration of an annexation request:
   a) An Annexation Plat meeting the criteria for a Final Plat (see **Sec. 37-3.D. Final Plat**).
   b) An Annexation Plan meeting the criteria for a Master Development Plan (**Sec. 37-3.A. Master Development Plan**) identifying the purpose for which the property is intended to be used.
   c) An initial zoning request shall be submitted concurrently with the annexation application. The initial zoning of land shall occur jointly with the annexation procedures but shall occur as a separate and distinct action by the City Council.
   d) A cost-benefit analysis to compare long-term public revenues and expenditures related to the proposed development. The analysis shall be commissioned by the City at the expense of the applicant. City-commissioned fiscal impact analyses should be conducted according to a standard methodology developed and endorsed by the City in conjunction with a qualified third party. The analysis should consider factors such as the need to extend and indefinitely maintain City infrastructure (e.g., utilities, roadways, parks) and increased demand on City services (e.g., police, fire, libraries). The report shall also consider anticipated revenues generated by the development. The City may waive the requirement for a fiscal impact analysis where annexation is proposed to incorporate land already serviced by City utilities, to improve public health, or to absorb municipally owned land.

## D. Review and Consideration of an Annexation Request

1. Criteria for Consideration

   Review and approval entities shall consider the following criteria when evaluating an annexation request:

   a) Whether adequate public facilities are available in the area,
   b) Potential fiscal, sustainability, and environmental impacts;
   c) Compatibility with pre-existing and proximate land uses;
   d) Availability of land within the municipal limits that can accommodate the proposed land use; and
   e) Conformity to the growth patterns and development policies promoted in the Comprehensive Plan and other long-range planning documents.

2. Board of County Commissioners Comment

   In accordance with NMSA 3-7-17.1, the City shall submit the petition to the Board of County Commissioners for review and comment.

3. Development Review Committee Recommendation

   Annexation requests shall be forwarded to the Development Review Committee for review, comment, and recommendation.

4. Planning & Zoning Commission Recommendation

   Following Development Review Committee review, the Annexation Plat, Annexation Plan, initial zoning request, and cost-benefit analysis (if applicable) shall be scheduled for a public meeting for Planning & Zoning Commission recommendation.

   a) A written report shall be provided to the Planning & Zoning Commission from the Development Review Committee.

   b) The Planning & Zoning Commission shall recommend either approval, conditional approval, postponement, or disapproval of each element of the annexation request.

   c) It is the requirement of the Planning & Zoning Commission that no annexation request shall be reviewed unless either the applicant or the applicant's representative is present at the public meeting. If neither is present at the public meeting, the request will be postponed until the next regular Planning & Zoning Commission meeting.

5. City Council Decision

   a) Following a recommendation by the Planning & Zoning Commission, the annexation request and the initial zoning request shall be forwarded to the City Council for a public meeting and final action.

   b) The annexation request and the initial zoning request will be scheduled for the next available regular City Council meeting once staff has received the minutes of the Planning & Zoning Commission public meeting and all public notice requirements are met.

   c) The City Council shall approve, amend, postpone, or disapprove each element of the annexation request.

   d) A copy of the notice of decisions that include any changes or conditions the Planning & Zoning Commission and City Council made at public meetings shall be provided to all appropriate parties in accordance with **Sec. 34-3.D. Notice of Decision**.

## Sec. 34-5. Definitions

### A. Usage and Interpretation

For the purpose of this Development Code (Chapters 34 through 38), the following terms used herein shall be interpreted or defined as follows:

1. Words used in the present tense include the future tense;
2. The singular includes the plural;
3. The word "person" includes a corporation as well as an individual;
4. The term "shall" is always mandatory; and
5. The term "may" is discretionary.

Words and terms not expressly defined herein are to be construed according to the normally accepted meaning of such words or terms in the practice of municipal planning and engineering.

### B. Terms Defined: A-D

**1. Abandoned Sign**

A sign that no longer directs, promotes, or advertises a bona fide business, lessee, owner, product, or activity conducted or product or service. See **Sec. 38-10.K.2. Abandoned Signs**.

**2. Absolute Photometry**

A photometric measurement (usually of a solid-state luminaire) that directly measures the output of the luminaire. Reference Standard IES LM-79.

**3. Accelerated Erosion**

Rapid erosion caused by artificially induced alteration of the vegetation, land surface topography, or runoff patterns.

**4. Accessory Structure**

See **Sec. 36-3.B. Use Classifications and Use-Based Standards**.

**5. Accessory Uses**

A use incidental to and customarily associated with a specific principal use located on the same lot or parcel.

**6. Activity/Activities**

Any land stripping, earthmoving, trenching, road construction, and demolition or renovation of manmade facilities.

**7. Addition**

Any act or process that changes one or more of the exterior architectural features of a building or structure by increasing the size or capacity of a structure through new construction or by joining one or more existing structures.

**8. Adjacent**

Next to or adjoining something else.

**9. Agricultural Stormwater Runoff**

Any stormwater runoff from orchards, cultivated crops, pastures, range lands, and other non-point source agricultural activities, but not discharges from concentrated animal feeding operations as defined in 40 CFR Section 122.23 or discharges from concentrated aquatic animal production facilities as defined in 40 CFR Section 122.24.

**10. Air Contaminant**

Smoke, vapor, charred paper, dust, soot, grime, carbon, fumes, gases, odors, particulate matter, windborne matter, or any air contaminant for which there is no national ambient air quality standard, and that is or may become harmful to public health or the environment when present in the outdoor atmosphere in sufficient quantities or duration.

**11. Alley**

Alleys provide access to the rear yards and can enhance pedestrian safety and traffic circulation. Rear service alleys can be used for solid waste collection services and/or additional off-street parking to accommodate expanded multimodal infrastructure or reduced right-of-way requirements along adjacent Local Streets, Collectors, or Arterial roadways.

**12. Alluvial Fan Flooding**

Flooding on the surface of an alluvial fan or similar landform that originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths. Alluvial fan flooding is shown as Zone AO on a Flood Insurance Rate Map (FIRM) with a flood depth and velocity.

**13. Alteration**

Any change to the exterior of a building, site, object, or structure, including, but not limited to, the construction, reconstruction, or removal of any architectural or structural elements; or changes to an interior space of a publicly accessible building designated as a historic landmark.

**14. Ambient Air**

That portion of the atmosphere, external to buildings, to which the general public has access. Land owned or controlled by the stationary source and to which public access is precluded by a fence, physical barriers, or other effective means is exempted from the ambient air provisions.

**15. Anthropogenic**

Created or caused by human activity.

**16. Apex**

The top or narrow point of the alluvial fan.

**17. Appeal**

A request for a review of an interpretation or decision. See **Sec. 34-3.F. Appeals**.

**18. Applicant**

The person or entity responsible for the submittal of an application. The applicant must be the actual owner of the subject property or a representative designated in writing by the owner.

**19. Architectural Lighting/Architectural Illumination**

Lighting designed to reveal architectural beauty, shape and/or form and for which lighting for any other purpose is incidental.

**20. Area of Shallow Flooding**

A designated AO, AH, or VO zone on the City of Las Cruces's flood insurance rate map (FIRM) with a one-percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**21. Area of Special Flood Hazard**

An area having special flood, mudflow or flood-related erosion hazards and shown on a Flood Insurance Rate Map (FIRM) Zone A, AO, A1-A30, AE, A99, AH, AR, V1-V30, VE, or V. The SFHA is the area where the National Flood Insurance Program's (NFIP's) floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies.

**22. Arroyo**

A dry creek, streambed, or gully that temporarily or seasonally fills and flows after sufficient rain.

**23. Arterial Street**

See #230 Minor Arterial and #288 Principal Arterial.

**24. Astronomic Time Switch**

An automatic lighting control device that switches outdoor lighting relative to the time of solar day with time of year correction.

**25. Attached Sign**

A type of sign that is fastened to, connected to, or painted on and wholly or partially supported by a building. See **Sec. 38-10.G. Sign Types and Supplemental Standards**.

**26. Awning**

A hood or cover that projects from the wall of a building and is composed of rigid or nonrigid materials.

**27. Backfill**

Soil that is replaced in a hole or trench after excavation and placement of utilities, conduct, structures, or plant materials.

**28. Backflow**

The reversal of the normal flow of water (potable or non-potable) or other substances into a drinking water system that may be caused by back siphonage or back pressure in the presence of a cross-connection.

**29. Backlight**

For an exterior luminaire, flux radiated in the quarter sphere below horizontal and in the opposite direction of the intended orientation of the luminaire. For luminaires with symmetric distribution, backlight will be the same as front light.

**30. Base Flood**

The flood having a one-percent chance of being equaled or exceeded in any given year.

**31. Base Flood Elevation (BFE)**

The elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a one-percent chance of equaling or exceeding that level in any given year - also called the Base Flood.

**32. Basement**

Any area of the building having its flood sub-grade (below ground level) on all sides.

**33. Best Management Practices (BMP)**

The correct application of the current scientific principles to the evaluation, design, construction, and maintenance of engineering projects. All projects must meet the minimum standards as adopted by the City. All designs are based on health, safety, convenience, and general welfare of the public.

**34. Billboard**

A freestanding sign type that typically includes a concrete foundation, metal pole structure, and a flat surface upon which a display panel or a material such as vinyl, canvas, or plastic surface is placed. See **Sec. 38-10.D. Prohibited Signs**.

**35. Block**

Land surrounded on all sides by streets or other rights-of-way or by physical barriers such as bodies of water or public open spaces.

**36. Buffer Yard**

An area along the property line between various districts that have differing intensities and impacts intended to promote public health, safety, and welfare. See **Sec. 38-8.D. Required Buffer Yards**.

**37. BUG**

A luminaire classification system that evaluates backlight (B), uplight (U), and glare (G).

**38. Build-To Line**

A line established within a certain distance from the front property line, in front of which a building facade (or a percentage of a facade) must be built. Build-To Lines are typically used to place buildings closer to the street frontage, resulting in more pedestrian-oriented development.

**39. Building**

Any structure as defined in Chapter 30 of the Las Cruces Municipal Code.

**40. Building Height**

The height of a building measured from the lowest adjacent ground surface level to the highest point of the building or from the elevation of the adjacent ground, whichever is lower. Building height excludes chimneys, flagpoles, cooling towers, elevators, bulkheads, penthouses, tanks, water towers, radio towers, ornamental cupolas, domes and spires, and parapet walls not exceeding ten feet in height.

**41. Building Official**

The City official authorized to administer the Building Code or their designee. See Chapter 30. Buildings and Building Regulations of the Las Cruces Municipal Code.

**42. Building Permit**

Any duly authorized permit for construction issued by the Building Official authorizing construction or demolition, including soil disturbance. See **Sec. 36-5.E. Building Permits and Certificates of Occupancy** and LCMC, Chapter 30, Article II, Division 2, Sections 30-171 through 30-722.

**43. Candela**

The basic SI (Systeme International d'Unities) unit of luminous intensity. One candela is one lumen per steradian.

**44. Canopy or Marquee**

A permanent, roof-like shelter extending from part or all of a building or independent of a building.

**45. Certificate of Appropriateness**

A written record issued by the Historic Preservation Committee or City Staff on behalf of the Committee, authorizing plans for alterations, construction, removal, or demolition of a building, structure, object, or site located within a historic district or designated as a cultural property. See **Sec. 35-3. Plan Review, Certificates of Appropriateness, and Economic Hardship**.

**46. Certificate of Economic Hardship**

A written record of relief issued by the Historic Preservation Committee, following the denial of a Certificate of Appropriateness, that authorizes plans for additions, alterations, construction, removal, continuation of a non-compliant condition, or demolition in whole or part of a building, structure, object, or site that is located within a historic district or designated as a cultural property when the property owner is unable to either fund the required work, put the property to a reasonably beneficial use, and/or cannot obtain a reasonable economic return thereon without completion of the requested course of action. See **Sec. 35-3.D. Certificate of Economic Hardship**.

**47. Certificate of Occupancy**

The permit issued by the Building Official to indicate that a structure may be occupied and/or used for its approved purpose(s). See **Sec. 36-5.E. Building Permits and Certificates of Occupancy**.

**48. Certified Local Government (CLG)**

A unit of local government (town, city, or county) that has met the requirements of and has applied for certification to the State to become a fully participating partner in national and state historic preservation programs.

**49. Change of Occupancy**

Where the occupancy of a space changes from one group of occupants to another group of occupants, or changes from one division to another division in the same occupancy group (as defined in the International Building Code).

**50. Channel**

A natural or artificial watercourse (including arroyos, streams, swales, ditches, diversions, and manmade facilities) with a defined bed and banks that conducts continuously or periodically flowing water.

**51. Character Areas**

The City is divided into three types of Character Areas:

(a) Rural Character Area

(b) Suburban Character Area

(c) Urban Character Area

See **Sec. 36-2.B.2. Character Areas** for more information.

**52. Chemical/Organic Stabilizer**

Any nontoxic chemical or organic dust suppressant other than water which meets and specifications, criteria, or tests required by any federal, state or local water agency and is not prohibited for use by the U.S. Environmental Protection Agency (EPA) or any applicable law, rule or regulation.

**53. City**

The City of Las Cruces administrative government, which encompasses all lands within the City's corporate boundary as designated by the present City limit location(s).

**54. City Council**

The governing body of the City of Las Cruces, New Mexico. See **Sec. 34-2.A. City Council**.

**55. Clear Sight Triangle**

An area of unobstructed vision at street intersections and entrances/exits, permitting a vehicle driver to see approaching vehicles to the right or left. See **Sec. 38-2.H. Clear Sight Triangle**.

**56. Clearing and Grubbing**

Any activity that removes the vegetative surface cover from a site. Clearing includes removing and disposing of all unwanted surface material, such as trees, brush, grass, weeds, downed trees, and other material. Grubbing includes removing and disposing of all unwanted vegetative matter from underground, such as stumps, roots, buried logs, and other debris.

**57. Code Enforcement Officer**

The City official(s) designated to enforce and ensure compliance with this Development Code and other ordinances adopted by the City, or their designee.

**58. Codes**

Any other applicable local, state, or federal codes.

**59. Collector Street**

Collectors provide access from local streets through neighborhoods to arterials. Collectors are used for short trips within a small geographical area rather than across the region.

**60. Co-Location**

To install, mount, maintain, modify, operate, or replace one or more wireless facilities on, in, or adjacent to a wireless support structure or utility pole. See **Sec. 38-11.D. Co-Location**.

**61. Common Wall or Common Fence**

An artificially constructed barrier or structure along a property line between two or more properties owned by two or more separate property owners. See **Sec. 38-8.C.3. Common Walls or Fences**.

**62. Community Development Director**

The Director of the City’s Community Development Department (or successor department charged with overseeing land use and development in the City), as appointed by the City Manager. This term also includes the Director’s designee(s) or Consultant.

**63. Compaction**

The process of making a soil denser through the application of dynamic impact to the soil mass. Specific minimum requirements are found within the current City construction specifications (standard specifications for road construction).

**64. Compatibility**

The positive relationship of alterations to existing buildings and designs for new construction to their environs, measured by consistent application of accepted design guidelines and standards that define the individual visual character, function and use, and architectural features of a specific geographic area.

**65. Comprehensive Plan**

The most recent City-adopted policy document that serves as the guide for the future physical development of the City and any actions concerning land use and development.

**66. Concept Plan**

A Concept Plan is a required step in the Planned Unit Development (PUD) process that is intended to assist in identifying the appropriateness of a proposed development within the context of its surroundings. The Concept Plan forms the basis for approval of the PUD. See **Sec. 36-5.D.2.d) Step 2: Concept Plan**.

**67. Conduit**

An underground, nonmetallic, waterproof enclosure for voltage-carrying street light circuits.

**68. Construction**

Any act or process that requires a building permit.

**69. Construction and Demolition Activities**

Any on-site activities preparatory to or related to building alteration, rehabilitation, removal or razing, or improvement on real property, including the placement and upkeep of mobile or manufactured homes or buildings. "Construction" also means construction of roadway systems including, arterials, expressways, interstates, tunnels, overpasses, bridges, interchanges, residential and commercial streets within a subdivision, and airport runway improvements.

**70. Construction Plans**

Construction Plans are a set of detailed drawings and studies that ensure public improvements are installed to serve a development in accordance with all applicable regulations. See **Sec. 37-3.C. Construction Plans**.

**71. Contiguous Property**

Parcels of property that are in contact or touching.

**72. Contributing Property**

A building, object, site, or structure in a historic district that enhances the district's historical and/or architectural significance through location, design, setting, materials, workmanship, and/or association and as determined by the SHPO.

**73. Control Measures (CMs)**

Defined procedures intended for controlling the detachment of soil, the movement of water and/or the deposition of sediment.

**74. Control Plan**

A written description of all reasonably available control measures (RACMs) to be implemented at a work site and/or in transit to and from a work site for any earth-moving, construction, or potential dust-generating operation. Such written description may be incorporated into building and construction plans or a separate document submitted with said plans.

**75. County**

Doña Ana County, New Mexico.

**76. County Clerk's Office**

The Doña Ana County Clerk's Office, which maintains records such as resolutions, ordinances, plats, and permits.

**77. Crown**

The cross slope or difference in elevation between the high point of a street (usually the centerline of the street) and the gutter line, adjacent to the pavement edge, for any given cross section. Crown is normally expressed as a percentage or inches of vertical change per foot of horizontal distance.

**78. Cul-De-Sac**

A minor street with only one outlet and culminated by a turnaround. See **Sec. 38-2.E.4. Cul-de-Sacs and Dead-End Streets**.

**79. Cultural Landscape**

A geographic area, including both cultural and natural resources and the wildlife or domestic animals therein, associated with a historic event, activity, or person, or exhibiting other cultural or aesthetic values. The four general types of cultural landscapes are: historic sites, historic-designed landscapes, historic vernacular landscapes, and ethnographic landscapes.

**80. Cultural Properties Review Committee (CPRC)**

The committee appointed by the Governor of the State of New Mexico and established by the Cultural Properties Act NMSA 1978, Sections 18-6A-1 et seq. (as amended) to serve as a professional policy-making and advisory board for historic preservation in New Mexico.

**81. Cultural Property**

Any building, structure, object, improvement, or site of particular historic or aesthetic significance to the city, the state, or the nation where cultural, political, spiritual, economic, educational, archaeological, social, or artistic history of the community, state, or nation is reflected or exemplified or which is identified with historic personages or with important events in local, state, or national history, or which embody the distinguishing characteristics of an architectural specimen, inherently valuable for representation of a period, style, or method of construction, or a notable work of construction, or a notable work of a master designer or architect whose individual genius influenced a particular period of time or aesthetic movement; also known as a cultural resource or a historic landmark. See **Sec. 35-2.D. Cultural Property Designation**.

**82. Cultural Property Designation Report**

A report prepared by City Staff that provides the history of a property, a map of its location, and historic and current views of the property, and includes a determination of eligibility based upon the application of the National Register Criteria for Evaluation to present for recommendation before the City Council. See **Sec. 35-2.D.2.l) Eligibility Report**.

**83. Curb Cut**

A depressed segment of a vertical roadway curb.

**84. Curb Return**

A curved segment of curb used at each end of an opening in the roadway curb.

**85. DBH**

See #99 Diameter at Breast Height.

**86. Dedicated Easement**

A public easement that is dedicated for public use and is recorded as such in the County Clerk's Office. See #110 Easement.

**87. Demolition**

Any act or process that requires a building permit for the purpose of removing or destroying, in whole or in part, any improvement to a site.

**88. Demolition by Neglect**

Any voluntary or involuntary act or process that results in a failure to maintain a building, structure, object, or site in sound condition when such act or process, over a period of time, results in the visible deterioration or removal, in whole or in part, of any man-made component on the site. See **Sec. 35-3.C.5. Demolition by Neglect and Deferred Maintenance**.

**89. Design Guidelines**

The written standards adopted by the City intended to provide technical advice and guidance to the Historic Preservation Committee and the Historic Preservation Specialist to evaluate applications to preserve the historical, cultural, and architectural character of an area or of a building, object, site, or structure.

**90. Designated Property**

A property that has been recognized as historically significant at the local, state, and/or national level by being listed in the Register of Cultural Properties, the State Register of Cultural Properties, and/or the National Register of Historic Places.

**91. Designee**

A City official designated full authority by the decision-maker or City Manager to conduct an act on the decision-maker's behalf.

**92. Detention Basin**

A detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

**93. Determination of Completeness**

The determination made by the Community Development Director that an application is accompanied by all required documents and has been prepared in accordance with the requirements of this Development Code. Acceptance of an application does not indicate approval or compliance with the Development Code's standards. See **Sec. 34-3.C.4. Complete Application**.

**94. Development**

Any human-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials. Development includes, but is not limited to, such activities as the construction, reconstruction, alteration of the size, or material change in the external appearance of a structure or land; commencement of mining excavation, trenching, or grading; demolition of a structure or removal of vegetation; deposit of refuse, solid waste or fill; alteration of a floodplain, or bank of a watercourse.

**95. Development Code**

This Development Code (sometimes referred to as the "Code") adopted by the City Council, including any future amendments.

**96. Development Project**

Any development resulting from the approval of a building permit, lot split, preliminary or final plat, rezoning application, grading permit, public or private infrastructure improvement, variance requests, development review, master plans, native plant removal, relocation or revegetation, or use permit.

**97. Development Review Committee (DRC)**

An informal group of representatives employed or retained by the City whose duties include reviewing development-related proposals and resolving conflicting comments, recommendations, or design differences between City reviewing departments and applicants. See **Sec. 34-2.C. Development Review Committee**.

**98. Development Schedule**

The calendar maintained by the Community Development Director identifying Official Submittal Dates and upcoming meeting schedules.

**99. Diameter at Breast Height (DBH)**

The diameter of a tree as measured at four-and-one-half feet above grade.

**100. Discretion**

Reasonable discretion of the decision-maker, given the specific issue, situation, past actions on previous similar decisions, and other available information.

**101. Disturbed Area**

Any area in which the soil will be altered by grading, leveling, scraping, cut and fill activities, excavation, brush and timber clearing, grubbing, and unpaved soils on which vehicle operations and/or construction activities will occur.

**102. Drainage Plan**

A plan indicating an on-site drainage proposal, the passage of stormwaters through the development and safe discharge of runoff onto adjacent lands or into storm drainage facilities. Also, a comprehensive analysis of (i) the existing storm drainage conditions of a proposed development, and (ii) the disposal of the increased runoff which is generated by the proposed development.

**103. Driveway**

A point of vehicular access between a street and an abutting property, and is further defined to include:

(1) The area between the face of curb and the right-of-way line for streets with curbs.

(2) The area between the edge of pavement of the outside travel lane and the right-of-way line for strip paved streets.

(3) The area between the right-of-way line and 15 feet from the right-of-way line toward the street for completely unimproved streets.

**104. Driveway Apron**

The drivable portion of the driveway approach extending from the property side of the curb to the sidewalk section and lying between the end slopes of the driveway approach.

**105. Dust Generating Operation**

Any activity or source capable of generating emissions of fugitive dust or causes off-property transport, including, but not limited to, activities associated with creating a disturbed area, construction and demolition activities, and the movement of vehicles on unpaved roadways or parking areas.

**106. Dust or Dust Emissions**

The finest particulates within the soil that may be transported and deposited by a blowing wind initiated by a surface disturbance that could present a health or safety hazard to the adjacent area or its occupants.

**107. Dust Suppressant**

A chemical compound or mixture of chemical compounds added with or without water to a dust source for purposes of preventing air entrainment.

**108. Dwelling**

A building or part of a building, containing living, sleeping, housekeeping accommodations, and sanitary facilities for occupancy by one or more families.

**109. Dwelling Units Per Acre (DUA)**

The total number of dwelling units divided by the total site acreage. Dwelling units per acre (**Error! Reference source not found.**) is calculated using gross acreage of the proposed development, including any floodplain, rights-of-way, and other undevelopable land.

Example calculation:

45 dwelling units on a 5-acre site = 9 DUA

4 dwelling units on a 20,000-square-foot site (0.459 acres) = 8.7 DUA

## C. Terms Defined: E-K

**110. Easement**

A non-possessing interest held by one person, party, or entity in land of another, whereby, that person is accorded partial use of such land for a specific purpose. An easement restricts but does not abridge the right of the fee owner to the use and enjoyment of their land.

**111. Emergency Outdoor Lighting**

Generally, lighting that is only energized by an emergency power source; or to illuminate the path of egress solely during a fire or other emergency situation; or lighting for security purposes used solely during an alarm.

**112. Emission**

An air contaminant, or the act of discharging an air contaminant, visible or invisible that could cause a health and safety hazard to the adjacent area and its occupants.

**113. Engineering Site Review**

A surficial review of a site to determine its preliminary engineering capacity based on exposed indicators that include historical site stability and past development(s). This investigation is performed under the direction of a Professional Engineer.

**114. Erosion**

Geological process in which earthen materials are worn away and transported by natural forces such as wind or water.

**115. Erosion and Sediment Control Plan**

A set of plans prepared by or under the direction of a licensed professional engineer indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

**116. Erosion Control**

Measures used to reduce the amount of soil particles that are carried off of a land area and deposited in a receiving water.

**117. ETZ**

Extraterritorial zone.

**118. Expansive Soils**

Soils that contain a high concentration of clay-sized particles that, when wetted, will expand in size and lose strength, or, when dried, will shrink and form a hard cemented layer. These soils are typically restrictive to water passage or infiltration.

**119. Exterior Appearance**

The visual character of all outside surfaces of a structure, including the kind and texture of materials, signs, light fixtures, steps, or appurtenant elements.

**120. Exterior Features**

Architectural or structural elements that define the architectural style and general design patterns of the exterior of a building or structure, including the type and texture of building materials and the type, style, and general arrangement of all windows, doors, ornamental features, light fixtures, signs, fences, walls, and other elements, as well as other natural features such as vegetation, trees, and shrubbery.

**121. Family**

Persons related by blood or marriage, or a group of persons who need not be related by blood or marriage, living together as a single housekeeping unit.

**122. Fee In Lieu**

A payment of money in place of meeting all or part of the standards required by this Development Code.

**123. Fee Schedule**

A listing of fees for various applications, which is prepared by the City Manager's Office and approved by the City Council. The Fee Schedule may be amended periodically. The Fee Schedule is approved and maintained separately from this Development Code.

**124. Fence**

Any artificially constructed access barrier consisting of posts, wire, wood, steel, cable, or similar material to enclose or screen areas of land. Included within this definition are prefabricated fence panels (wood, plastic, or metal) that are typically sold at building supply stores. See **Sec. 38-8. Fencing, Screening, and Buffering**.

**125. Final Plat**

The official and authentic map of any given subdivision of land prepared from actual field measurement and staking of all identifiable points by a surveyor or engineer with the subdivision location referenced to a survey corner and all boundaries, corners, and curves of the land division sufficiently described so that they can be reproduced without additional references. The Final Plat shall be filed and recorded with the County Clerk's Office. A Final Plat may also be referred to as a Record Plat or Plat of Record. See **Sec. 37-3.D. Final Plat**.

**126. Finding of Fact**

The conclusions found to be true from an examination of the underlying evidence and testimony of a case under consideration in accordance with established review criteria.

**127. Fire Department**

The City's fire department or any duly authorized representative thereof.

**128. Flexible Development Standard**

A numerical deviation from the Development Code requirements that may be approved administratively. See **Sec. 34-3.E. Flexible Development Standard**.

**129. Flood Elevation Study**

An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (e.g., mudflow) or other flood-related erosion hazards.

**130. Flood Hazard Area**

An area subject to inundation from the 1-percent probability storm.

**131. Flood Insurance Rate Map (FIRM)**

Official map of a community that defines both the special flood hazard areas and flood zones applicable to the community. This map is used by the National Flood Insurance Program (NFIP) for floodplain management, mitigation, and insurance purposes.

**132. Flood Insurance Study (FIS)**

The official report provided by the Federal Emergency Management Agency. The report compiles and presents flood risk data for specific watercourses, lakes, and other flood hazard areas within a community.

**133. Flood Lamp**

A specific form of lamp designed to direct its output in a specific direction (a beam) with a reflector formed from the glass envelope of the lamp itself, and with a diffusing glass envelope. Such lamps are so designated by the manufacturers and are typically used in residential outdoor area lighting.

**134. Floodproofing**

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

**135. Floodplain Management**

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

**136. Floodplain Management Regulations**

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

**137. Floodplain or Floodprone Area**

Any land area susceptible to being inundated by flooding.

**138. Floodway**

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot cumulatively. Also referred to as “Regulatory Floodway”.

**139. Floor Area**

The gross square feet of floor area within a building or portion thereof. For the purpose of this Code, floor area and gross floor area shall be the same, and shall be based on the outside dimensions of a building as shown on a plot plan, and shall include interior balconies, mezzanines, stairwells, storage areas, mechanical equipment areas, and basements.

**140. Freeway**

A divided multilane highway for through traffic with all crossroads separated in grade and with full control of access.

**141. Freestanding Sign**

A type of sign attached to or supported from the ground and not attached to a building. See **Sec. 38-10.G. Sign Types and Supplemental Standards**.

**142. Frontage**

A specified distance measured along a right-of-way property line or access easement.

**143. Frontage Road**

A local street parallel to and adjacent to another street, normally a highway or a freeway.

**144. Fugitive Dust**

Particles lifted into the ambient air by manmade and natural disturbance activities such as the movement of soil, vehicles, equipment, blasting, and wind.

**145. Full Cutoff (or Fully Shielded) Luminaire**

A luminaire where zero candelas occur at or above an angle of 90 degrees and a maximum of ten percent candelas at 80 degrees above the nadir of the installed luminaire. This applies to all lateral angles around the luminaire. Such candela information shall be determined by a photometric test report from a nationally recognized independent testing agency and as certified by the manufacturer.

**146. Geotechnical Soils Investigation**

A geotechnical investigation includes surface exploration and subsurface exploration of a site. Subsurface exploration usually involves soil sampling and laboratory tests of the soil samples to establish their unique engineering design properties. Investigations are documented with all findings, location(s), investigation equipment listing, with field crew names, and the responsible Professional Engineer.

**147. Geotechnical Soils Report**

A written summary report containing all information obtained from a geotechnical soils investigation, a discussion of the findings and their evaluation(s), and a summary of specific engineering design recommendations, parameters, or designs. This document is signed and sealed by a Professional Engineer.

**148. Glare**

Lighting entering the eye directly from luminaires or indirectly from reflective surfaces that causes visual discomfort or reduced visibility.

**149. Glazing**

The transparent or translucent material (i.e., windows or doors with glass) on the exterior of a building. In calculating Glazing, the window assembly/frame are included; however, only the glass portion is included for a door. Where Glazing is required, ground floors must have a Visible Light Transmittance (VLT) of 0.6 (that is, 60% of light is transmitted) or higher to meet the requirements herein.

**150. Grading**

Grading includes any excavation, clearing, filling, leveling, or contouring of the ground surface by human or mechanical means. Site grading is performed to ensure a level base or obtaining a specific slope on the land.

**151. Grading Plan**

A plan describing the existing topography and proposed grading, including retaining walls and details, interfaces with adjacent properties, streets, alleys, and channels, referenced to mean sea level based on a city benchmark, and showing sufficient contours, spot elevations, and cross sections to allow a clear understanding by reviewers, contractors, and inspectors.

**152. Ground Water**

Groundwater is water that exists underground in saturated zones beneath the land surface. The upper surface of the saturated zone is the water table.

**153. Hardship**

A restriction on property so unreasonable that it results in an arbitrary and capricious interference with basic property rights, and the property is rendered unusable without the granting of a variance or other relief.

**154. Haul Road**

A road constructed for, or used for, the purpose of hauling construction materials, or to provide access to one or more construction sites or industrial operations.

**155. High Wind Event**

A climatological occurrence in which the average wind speed exceeds a threshold in which fugitive dust will be generated from undisturbed areas, naturally covered areas, disturbed areas, and construction sites, regardless of reasonably available control measures implementation. The average wind speed for high wind events is a sustained wind speed of 25 miles per hour or greater.

**156. Highest Adjacent Grade**

The highest natural elevation of the ground surface next to a finished structure's walls or, if the structure has not been constructed, next to the proposed walls of the structure.

**157. Historic Building**

Any building or structure that is listed in the State or National Register of Historic Places; designated as a historic property under local or state designation law or survey; certified as a contributing resource within a National Register-listed or locally designated historic district; or with an opinion or certification that the property is eligible to be listed on the National or State Register of Historic Places either individually or as a contributing building to a historic district by the State Historic Preservation Officer or the Keeper of the National Register of Historic Places.

**158. Historic Character**

Those architectural forms, materials, elements, features, construction methods or craftsmanship, spatial arrangements, and architectural style that, when combined, result in a distinctive setting, feeling, building, or area.

**159. Historic Context**

Summary information about the period, local setting and/or surroundings, circumstances, associations, and events that created, influenced, or resulted in the development of a specific property or group of properties, collected to assist in the development of a full understanding and assessment of the property.

**160. Historic Cultural Properties Inventory (HCPI) Form**

The form provided by City Staff upon request to an applicant interested in nominating a property or properties within a potential district for inclusion in the local Register of Cultural Properties in which baseline information is compiled to determine potential nomination eligibility. See **Sec. 35-2.D.2. Procedure for the Designation of a Cultural Property**.

**161. Historic District**

An area in the City designated under local, state, or federal authority that contains within definable geographic boundaries one or more properties zoned with a Historic Preservation Overlay, including accessory structures, fences, and other appurtenances having historical, cultural, and archaeological significance, and which may contain an assortment of properties classified as significant, contributing, noncontributing, and intrusive.

**162. Historic District Designation Report**

A report prepared by City Staff that provides the history of a cluster of properties, a map of their location, and historic and current views of the properties, and a determination based upon the application of evaluation criteria for review by the Historic Preservation Committee. See **Sec. 35-2.E.2. Procedure for the Designation of a Historic District**.

**163. Historic Eligible**

A property that appears to meet the criteria for designation.

**164. Historic Integrity**

A determination of the extent that a site, structure, object, building, or area retains its defining archaeological, historic, and/or cultural attributes associated with one or more of the National Register Criteria for Evaluation.

**165. Historic Interior**

An architecturally or historically significant interior space that remains substantially intact in terms of original configuration; original volume; and/or original architectural ornamentation and decoration, which exhibits surviving original historical finishes or has the potential for accurate restoration of such finishes; and which is open, to be used by, or may be used by the public.

**166. Historic Preservation Committee**

The committee created by the City Council authorized to direct and assist in the preparation and updating of the City's historic preservation plan; to create and review design guidelines for historic districts and cultural properties; to review and render decisions upon applications relating to historic and cultural properties; and to advise City Staff in initiating and implementing relevant preservation planning programs.

**167. Historic Preservation Design Guidelines**

The written standards adopted by the City intended to provide technical advice and guidance to the Historic Preservation Committee and City Staff to evaluate applications to preserve the historic, cultural, and architectural character of an area or of a building, object, site, or structure.

**168. Historic Preservation Fund**

A federally supported assistance program managed by the National Park Service to assist State, Tribal, and local historic preservation offices with a variety of historic preservation and community projects focused on heritage preservation.

**169. Historic Preservation Overlay Zone**

An overlay zoning district corresponding to the Historic District Designation that protects and preserves individual structures and neighborhoods composed of architecturally and historically significant buildings; this zoning district shall be in addition to any other zoning district in place, and may be applied to buildings, structures, objects, sites, and districts.

**170. Historic Preservation Program**

The City's policy initiative under the direction of the City Council to encourage and uphold the Declaration of Policy and Intent in **Chapter 35. Historic Preservation**.

**171. Historic Significance**

"Historic Significance" means:

(1) The attributes or characteristics of a district, site, or structure that possess integrity of location, design, setting, materials, workmanship, feeling, and association;

(2) A district, site, or structure that is associated with events that have made a contribution to the broad patterns of our history;

(3) A district, site, or structure that is associated with the lives of persons significant in the past;

(4) A district, site, or structure that embodies the distinctive characteristics of a type, period, or method of construction;

(5) A district, site, or structure that represents a significant and distinguishable entity whose components may lack individual distinction; or

(6) A district, site, or structure that has yielded, or may be likely to yield, information important in prehistory or history.

**172. Historic Site**

The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historical, cultural, and/or archeological value regardless of the value of any existing structure.

**173. Historic Site Survey**

A systematic gathering of information related to the architectural, historic, scenic, and/or archaeological significance of buildings, structures, and/or objects within a specified geographic area through an assessment of field and archival documentation for the purpose of identifying properties that may be designated as cultural properties or historic districts.

**174. Historic Structure**

Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs that have been approved by the Secretary of Interior; or

(4) Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior, or

(b) Directly by the Secretary of the Interior in states without approved programs.

**175. Historical Survey (Intensive)**

A systematic, detailed examination of an area designed to gather information about historic properties sufficient to evaluate them in accordance with criteria of significance within specific historic contexts.

**176. Historical Survey (Reconnaissance)**

An examination of all or part of an area accomplished in sufficient detail to make generalizations about the types and distributions of historic properties that may be present.

**177. Historical Rehabilitation**

The act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features that convey its historical, cultural, or architectural values and characteristics.

**178. Historical Restoration**

The act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period.

**179. Illuminated Sign**

Any sign lighted internally, externally, or by lights directed towards the sign by any light source.

**180. Impervious Cover**

Those surfaces that do not effectively allow rainfall infiltration. (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

**181. Improvements**

Any building, structure, work of art, parking facility, fence, gate, wall, or other object constituting a physical addition to real property, or any part of such addition, including infrastructure such as streets, curbs, gutters, sidewalks, fire hydrants, storm drainage facilities, bike paths, trails, and water, sewer, and gas systems or parts thereof.

**182. Inactive Disturbed Area**

Any disturbed surface area on which active operations have been suspended.

**183. Incandescent Lamp**

A lamp that produces light via an electrically heated metallic filament.

**184. Infill**

Any vacant or underutilized tract, lot, or parcel of real property, including those parcels currently used for agricultural purposes, that falls within the infill boundary established by the Infill Policy Plan.

**185. Infill Development**

For the purposes of **Chapter 35. Historic Preservation**, the utilization of or the construction upon vacant or underused parcels of land within historic districts or adjacent to individual or clusters of cultural properties whereby new construction or any alterations to the site are undertaken in accordance with design guidelines to ensure compatibility with neighboring structures which regard to height, setbacks, landscaping, aesthetics, mass, and materials.

**186. Infiltration**

The process by which water on the ground surface enters the soil.

**187. Infiltration Facility**

Any structure or device designed to facilitate infiltration of retained water to the subsurface. These facilities may be above grade or below grade.

**188. Initial Lumens**

A lamp's light output, in lumens, at initial installation. The manufacturer usually lists initial lumens. For example, a 100-watt incandescent lamp emits approximately 1,800 lumens.

**189. International Building Code (IBC)**

The model building code developed by the International Code Council (ICC). This code has been adopted by the City for construction within the City, exempting one- and two-family dwellings.

**190. International Residential Code (IRC)**

A comprehensive, stand-alone residential code that contains minimum regulations for one- and two-family dwellings and townhouses up to three stories. It brings together all building, plumbing, mechanical, fuel gas, energy, and electrical provisions for one- and two-family residences.

**191. Intersection**

A point where two or more streets intersect.

**192. Irrigation System**

Consists of an underground system, automatic or manual, that includes a reduced principal backflow preventor, pipes, valves, and heads, and that shall be of an adequate size to properly irrigate the proposed planting.

**193. Institute of Transportation Engineers (ITE)**

The Institute of Transportation Engineers (ITE) is an international educational and scientific association of transportation professionals who are responsible for meeting mobility and safety needs.

## D. Terms Defined: L-O

**194. Lamp**

A generic term for a source of optical radiation (i.e., "light"), often called a "bulb" or "tube." Examples include incandescent, fluorescent, high-intensity discharge (HID) lamps, and low-pressure sodium (LPS) lamps, as well as light-emitting diode (LED) modules and arrays.

**195. Land Development**

The performance of any building or mining operation, the making of any material change in the use or appearance of any structure or land, the installation of public artwork, the division of land into two or more parcels, and the creation or termination of access right.

**196. Land Stripping/Activity**

Removal of all or any portion of existing vegetation, or natural soil surfacing, from parcels of land by various means.

**197. Landowner**

The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

**198. Landscape Lighting**

Lighting designed specifically for illuminating exterior natural features.

**199. Landscaping**

A combination of trees, shrubs, perennials, groundcovers, and artifacts, arranged in such a manner as to effect a design that follows the principles of **Sec. 38-7. Landscaping**. For approved types of landscaping and planting, see the Approved Plant List included in the Technical Manual.

**200. Las Cruces Municipal Code (LCMC)**

**201. Levee**

A levee is a long ridge of sand, silt, and/or clay built up by a river along its banks, especially during floods. It can also be an artificial embankment built to protect adjoining land from inundation. Levees can be naturally occurring or artificially constructed. They are used to prevent rivers from flooding cities in a storm surge and to increase available land for habitation or agriculture.

**202. Level of Service (LOS)**

A measure used by traffic engineers to determine the effectiveness of operation of elements of transportation infrastructure ranging from LOS A (highest) to LOS F (lowest).

**203. Light Pollution**

Any adverse effect of artificial light including, but not limited to, glare, light trespass, skyglow, energy waste, compromised safety or security, and impacts on the nocturnal environment.

**204. Light Trespass**

Light that falls beyond the property is intended to illuminate.

**205. Lighting System**

On a site, all exterior electric lighting and controls.

**206. Lighting Zone**

An overlay zoning system establishing legal limits for lighting for particular parcels, areas, or districts in a community. See **Sec. 38-9.E. Lighting Zones**.

**207. Liner Building**

A building specifically designed to mask a parking lot or a parking structure from a public frontage.

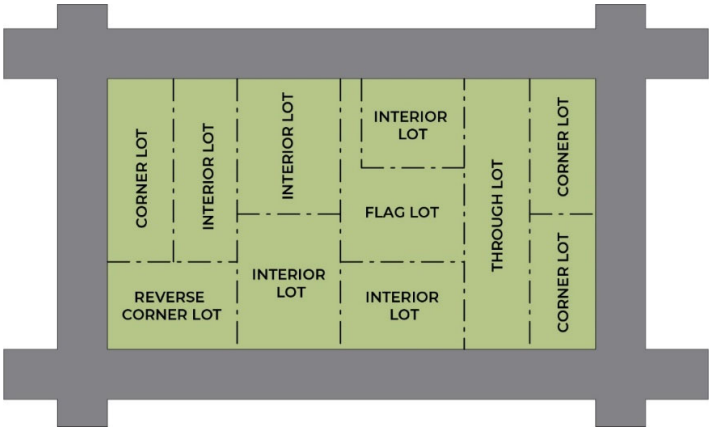
**208. Local Street**

Local streets provide neighborhood traffic circulation and property access. Local streets are the majority of streets in a roadway network; however, they carry the least amount of traffic.

**209. Lot**

A portion of a legally platted subdivision that is shown as a lot, tract, or parcel of land and held in separate ownership, as shown on the records of the county assessor. A legal lot is a parcel that has been divided in accordance with present or past zoning and subdivision requirements.

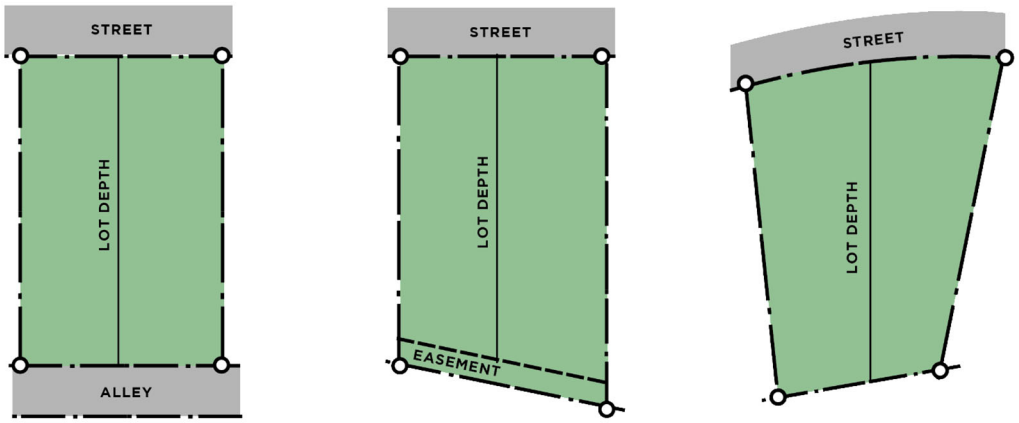
**Figure 34-5-1. Lot Types**



**210. Lot Depth**

The mean horizontal distance between the front and rear lot lines.

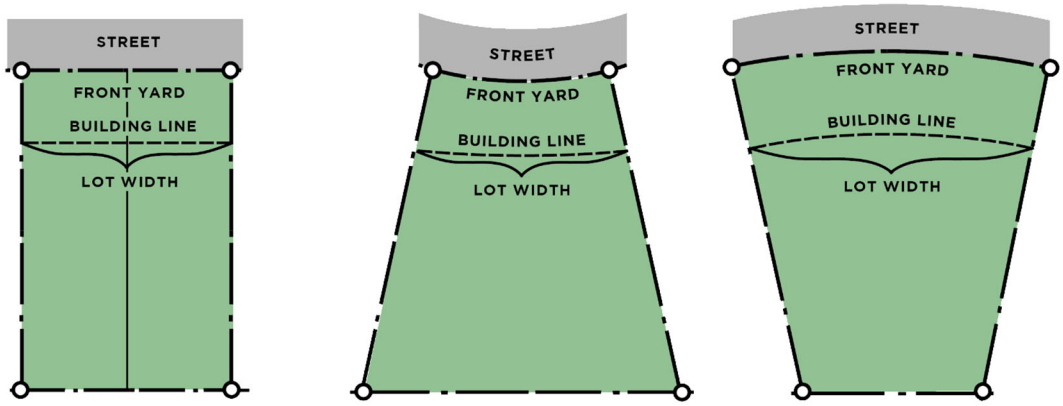
**Figure 34-5-2. Lot Depth Measurement Examples**




**211. Lot Width**

The width of a lot at the designated front property line.

**Figure 34-5-3. Lot Width Measurement Examples**




**212. Lot, Corner**

A lot abutting upon two or more streets or rights-of-way at their intersection. See **Sec. 36-4.A.4 Lot Requirements**.

**213. Lot, Double Frontage**

An interior lot fronting on two streets. One frontage shall be designated as the primary front yard. See **Sec. 36-4.A.4 Lot Requirements**.

**214. Lot, Flag**

A lot, parcel, or tract of land that includes a private accessway (the "flagpole" portion of the lot) extending to a public right-of-way to provide access to the rest of the lot (the "flag" portion of the lot). The private accessway has less frontage on a public right-of-way than the normally approved minimum lot width. See **Sec. 36-4.A.4. Lot Requirements**.

**215. Lot, Interior**

A lot other than a corner lot. See **Sec. 36-4.A.4 Lot Requirements**.

**216. Lowest Floor**

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

**217. Lumen**

The unit of measure used to quantify the amount of light produced by a lamp or emitted from a luminaire (as distinct from "watt", a measure of power consumption).

**218. Luminaire**

The complete lighting unit (fixture), consisting of a lamp, or lamps and ballast(s) (when applicable), together with the parts designed to distribute the light (reflector, lens, diffuser), to position and protect the lamps, and to connect the lamps to the power supply.

**219. Luminaire Lumens**

The cumulative total of initial lumens emitted by all lamps contained within a single luminaire. For luminaires with relative photometry per Illuminating Engineering Society (IES), it is calculated as the sum of the initial lamp lumens for all lamps within an individual luminaire, multiplied by the luminaire efficiency. If the efficiency is not known for a residential luminaire, assume 70 percent. For luminaires with absolute photometry per Illuminating Engineering Society (IES) LM-79, it is the total luminaire lumens. The lumen rating of a luminaire assumes the lamp or luminaire is new and has not depreciated in light output.

**220. Luminance**

A measure of the brightness of a surface which is emitting light. The unit of measurement most commonly used is candelas per square meter, often referred to as nits in the U.S. (one nit = one cd/m 2).

**221. Main Dwelling**

The primary dwelling on a property zoned for residential use.

**222. Maintenance**

The checking, repairing, and replacement of various dust control measures to insure their continued workability.

**223. Maintenance Agreement**

A legally recorded document that acts as a property deed restriction and provides for long-term maintenance of stormwater management practices and drainage infrastructure.

**224. Manual On Uniform Traffic Control Devices (MUTCD)**

A document issued by the Federal Highway Administration (FHWA) of the United States Department of Transportation (USDOT) to specify the standards by which traffic signs, road surface markings, and signals are designed, installed, and used.

**225. Manufactured Home or Manufactured Home Park**

See **Sec. 36-3.B. Use Classifications and Use-Based Standards**.

**226. Marquee Sign**

A sign attached to, mounted on, or painted on a marquee. See #44 Canopy or Marquee.

**227. Master Development Plan**

The graphic depiction of a phased or other larger development and associated materials intended to allow for high-level review of a proposed development. The Master Development Plan precedes a Preliminary Plat. See **Sec. 37-3.A. Master Development Plan** for more information.

**228. Mean Sea Level**

For purposes of the National Flood Insurance Program, North American Vertical Datum of 1988 (NAVD 1988) or other datum, to which base flood elevations shown on the City of Las Cruces's Flood Insurance Rate Map are referenced.

**229. Mechanically Stabilized Earth (MSE) Retaining Walls**

A composite structure consisting of alternating layers of compacted backfill and soil reinforcement elements, fixed to a wall facing. The stability of the wall system is derived from the interaction between the backfill and soil reinforcements, involving friction and tension. The wall facing is relatively thin, with the primary function of preventing erosion of the structural backfill.

**230. Minor Arterial**

Minor arterials provide high levels of mobility with limited or restricted access to abutting properties. Because mobility is the primary function of arterials, access control is highly desirable. Consolidated driveways and access between parking lots/parcels shall be required to reduce frequency of decelerating/accelerating vehicles, reduce conflict points, and maintain efficient traffic, pedestrian, bicycle, and transit flow.

**231. Mobile Vendor**

A vehicle-mounted establishment that offers food sales (e.g., food truck restaurant), retail sales (e.g., pop-up boutique), or commercial services (e.g., mobile pet grooming) from inside the vehicle.

**232. Modular Building**

A standardized factory-fabricated transportable building module not having a chassis or wheels of its own, designed and constructed in accordance with all applicable local building codes and intended to be placed on a permanent foundation, meeting all local zoning codes and to be used by itself or incorporated with similar units, manufactured housing, mobile homes, or site-built buildings at a building site. A modular building can be used for residential or nonresidential uses when located in appropriate zoning districts and must meet the appropriate building standards for a traditionally-constructed building.

**233. Mounting Height**

The height of the photometric center of a luminaire above grade level.

**234. Multi-Use Path**

A multi-use trail or path at least 10 feet in width that is physically separated from motorized vehicular traffic by a parkway or open space and usable by pedestrians, bicyclists, wheelchair users, and other non-vehicular users. See **Sec. 38-2.M. Sidewalks and Multi-Use Paths**.

**235. Municipal Separate Storm Sewer System (MS4)**

The system of conveyances (including roads with drainage systems, municipal streets, flood control dams, retention and detention basins, grate and/or curb inlets, curbs, gutters, ditches, man-made channels, arroyos, agriculture drains, storm drains or designated flow paths) owned, operated or controlled by the city and designed or used for collecting or conveying stormwater.

**236. National Historic Preservation Act (NHPA)**

The National Historic Preservation Act, 54 U.S.C. 300101 et seq., was enacted "to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes."

**237. National Register Criteria for Evaluation**

The criteria listed in the Code of Federal Regulations, Title 36, Part 60 (36 CFR 60) used to evaluate districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

(1) That are associated with events that have made a significant contribution to the broad patterns of American history; or

(2) That are associated with the lives of persons significant in American history; or

(3) That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

(4) That have yielded, or may be likely to yield, information important in prehistory or history.

**238. National Register of Historic Places**

The official list of the nation's places worthy of preservation; established under the National Historic Preservation Act of 1966, the register is administered by the National Park Service under the auspices of the Department of the Interior.

**239. Natural Cover**

Any vegetation, or natural ground surface, which exists on the property, prior to any construction activity. This includes areas which have been previously restored to undisturbed conditions.

**240. New Construction**

For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the City of Las Cruces and includes any subsequent improvements to such structures. (See "Start of Construction".)

**241. New Mexico Historic Preservation Division (NMHPD)**

A division within the Department of Cultural Affairs in the State of New Mexico authorized to identify and protect New Mexico's cultural resources, including its archaeological sites, architectural and engineering achievements, cultural landscapes, and diverse heritage.

**242. No Disturbance Zone**

Part of the designed foundation zone downslope of a retaining wall foundation. This zone develops the passive resistance to prevent the horizontal forces from the retained fill from moving the wall. Typically, this zone is a minimum width equivalent to the depth of the retained soil.

**243. Nonconforming**

See **Sec. 36-5.G. Nonconformities**.

**244. Nonconforming Sign**

Any sign legally erected and permitted in compliance with codes at the time it was erected and permitted, but which does not conform to current codes. See **Sec. 38-10.L. Nonconforming Signs**.

**245. Noncontributing Property**

A building, object, site, or structure in a historic district that does not possess individual architectural, historical, or structural significance or integrity within the context of the historic district or cluster of cultural properties and as determined by SHPO.

**246. Nonpoint Source**

Any source of any discharge of a pollutant that does not originate from a single source or point.

**247. Notice of Intent (NOI)**

The document that must be filed with the U.S. Environmental Protection Agency as notice to the NPDES permitting authority of the operator's intent to be covered under either the industrial general permit or the construction general permit.

**248. Notice of Termination (NOT)**

The document that must be filed with the U.S. Environmental Protection Agency when a facility is ready to terminate its NOI.

**249. NPDES**

The Federal National Pollutant Discharge Elimination System. This national law is the basis for the City Stormwater Management Plan (SWMP).

**250. NPDES Permit**

A permit issued by U.S. Environmental Protection Agency (or by the state under authority delegated pursuant to 33 USCS Section 1342 (b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

**251. Natural Resources Conservation Service (NRCS)**

NRCS, formerly known as the Soil Conservation Service (SCS), is an agency of the United States Department of Agriculture (USDA) that provides technical assistance to agriculture and communities.

**252. Nuisance**

See Chapter 18 of the Las Cruces Municipal Code.

**253. Official Submittal Date**

The date on which the City considers an application to be completed and officially submitted in accordance with the Development Schedule.

**254. Open Space**

That area for active or passive recreation, natural preservation. Open space is generally undeveloped, but may include accessory uses such as picnic pavilions, restrooms, or parking areas.

**255. Ordinary Repairs and Maintenance**

Any work done on or replacement of any part of a building or structure for which a permit issued by the Building Official is not required. The purpose and effect of such work or replacement is generally to correct any deterioration or decay of or damage to such building or structure or any part thereof and to restore the same, as nearly as may be practicable, to its condition prior to the occurrence of such deterioration, decay, or damage.

**256. Outdoor Lighting**

Lighting located exterior to a structure or that illuminates areas exterior to a structure.

**257. Outdoor Luminaire**

Any lighting device located exterior to a structure or that illuminates areas exterior to a structure, whether permanently or temporarily installed. This includes, but is not limited to:

(1) Searchlight

(2) Spotlight

(3) Floodlight

(4) Security lighting

(5) Sign and architectural lighting

(6) Lighting for parks, parking lots, roadways

(7) Athletic facility lighting

(8) Building overhand and open canopy lighting

(9) Product display area lighting

(10) Landscape lighting

(11) Signs or billboards, whether on-premises or off-premises, including LED, plasma, and similar light sources

**258. Outlot**

A parcel of ground or tract of land within a platted subdivision to be used for purposes other than residential. An example of an outlot is a tract of land designated for open space or a retention pond.

**259. Owner**

The person or entity who owns a property, use, facility, or operation or their designated representative.

**260. Owner Consent**

The act or result of reaching consensus and agreement, through reason and deliberation, by the owner(s) of real estate when cultural property designation is proposed at the suggestion of another party.

**261. Owner Objection (Cultural Property Designation)**

The right of all owners of record to object to a proposed cultural property designation of its buildings, structures, objects, or other improvements and the parcel of land to which those improvements are firmly attached.

**262. Owner Objection (Historic District Designation)**

The right of an owner (or owners) of record to object to the inclusion of its real property within a proposed historic district, potentially resulting in a modification to the district's proposed boundaries.

**263. Owner of Record**

The person, corporation, or other legal entity identified as the property owner in the official records of the Doña Ana County Assessor's Office.

## E. Terms Defined: P-S

**264. Palliative**

Any agent used to lessen or reduce dust emissions.

**265. Patio Home**

A type of single-family residential development in which the main structure is placed directly along a side property line (i.e., the "zero-setback side"), while the other side observes the typical setback requirement. See **Sec. 36-4.B.4. Dimensional Standards for Palliative**

**Any agent used** to lessen or reduce dust emissions.

Patio Homes and Townhouses.

**266. Park, Neighborhood**

Accessible, family-friendly destinations within the City that provide active and passive recreation opportunities within walking distance (1/4 mile walk-shed) of neighborhoods. Common amenities may include playground equipment, picnic areas, park benches, walking trails, open play areas, and occasionally, sports courts or athletic fields.

**267. Parking Lot**

An off-street, ground-level area improved for the temporary storage of motor vehicles.

**268. Parkway**

That area of a public street that is between the curb and sidewalk or between the sidewalk and the property line, which is used for planting and streetscaping purposes.

**269. Partially Shielded Luminaire**

A luminaire with an opaque top and translucent or perforated sides, designed to emit most light downward.

**270. Particulate Matter**

A mixture of solid particles and liquid droplets found in the air, including, but not limited to, dust, dirt, soot, and smoke.

**271. Peak Hour**

The highest consecutive four, 15-minute periods where traffic flow is heaviest on a particular road segment or intersection.

**272. Pennant**

A display made of a lightweight material that tapers to a point, having no logo or advertising message printed on it. See **Sec. 38-10.D. Prohibited Signs**.

**273. Performance Security**

A surety bond or other form of security made out to the City in an amount equal to the estimated full cost of the improvements, said cost being estimated by the Public Works Director, to ensure the City that the said improvements will be constructed in accordance with these regulations. See **Sec. 37-4.C. Installation and Acceptance of Public Improvements**.

**274. Period of Significance**

The finite span of time during which important events and activities associated with a specific cultural property or group of cultural properties occurred.

**275. Person**

Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities.

**276. Phasing**

Clearing a parcel of land in distinct phases, with the stabilization of each phase before the clearing of the next.

**277. Planned Unit Development (PUD)**

A development process whereby the intent is to promote design and development standard flexibility in cases where strict application of the zoning ordinance would inhibit the overall goals and objectives of the City. Also referred to as a "**Error! Reference source not found.**". See **Sec. 36-5.D. Planned Unit Developments (Error! Reference source not found.**s).

**278. Planning & Zoning Commission**

The officially appointed Planning & Zoning Commission of the City. See **Sec. 34-2.B. Planning & Zoning Commission**.

**279. Planning-Related Issues**

Issues related to but not limited to lot configuration, street network, right-of-way requirements, land use, density, phasing of development, suitability of location, and other issues determined by the Community Development Director to be planning-related.

**280. Plat**

A map, chart, survey, or plan, certified by a land surveyor, that contains a description of subdivided plat or resubdivided replat land with ties to permanent survey monuments.

**281. PM10 Emissions**

**282. Finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal ten micrometers emitted to the ambient air. Point Source**

Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leach ate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

**283. Pollutant**

Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. The term “pollutant” does not include tail water or runoff water from irrigation or rainwater runoff from cultivated or uncultivated range land, pasture land, and farm land.

**284. Porch**

A roofed patio entrance or exit area, open on at least one side.

**285. Portable Sign**

A freestanding sign not permanently affixed, anchored, or secured to the ground or a building, which may be rolled or moved about.

**286. Preliminary Plat**

The graphic expression of the proposed plan for subdividing, improving, and developing a tract shown by superimposing a scale drawing of the proposed land division on a topographic map and showing in plan view existing and proposed drainage features and facilities, street layout, and direction of curb flow, and other pertinent features with notations sufficient to substantially identify the general scope and detail of the proposed development. See **Sec. 37-3.B. Preliminary Plat**.

**287. Preservation**

The act or process of applying measures necessary to sustain the existing form, integrity, and materials of a cultural property, including any buildings, objects, and structures on the site.

**288. Principal Arterial**

Principal arterials provide high levels of mobility with limited or restricted access to abutting properties. Because mobility is the primary function of arterials, access control is highly desirable. Consolidated driveways and access between parking lots/parcels shall be required to reduce the frequency of decelerating/accelerating vehicles, reduce conflict points, and maintain efficient traffic, pedestrian, bicycle, and transit flow.

**289. Professional Engineer**

A person licensed by the New Mexico State Board of Licensure who is legally allowed to represent themself to the public as an engineer and is allowed to perform engineering design or construction of private and public works.

**290. Progress Toward Completion**

Includes any one or more of the following:

(1) An application for a Final Plat or plan for development is submitted;

(2) A good-faith attempt is made to file with the City or County an application for a permit necessary to begin or continue towards completion of the project;

(3) Costs have been incurred for developing the project, including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent of the most recent appraised market value of the real property on which the project is located;

(4) Fiscal security is posted with a regulatory agency to ensure the performance of an obligation required by the regulatory agency; or

(5) Utility connection fees for the project have been paid to a regulatory agency.

**291. Prohibited Sign**

Any sign not expressly permitted or any sign that is specifically prohibited in **Sec. 38-10.D. Prohibited Signs**.

**292. Protected Tree**

Any tree that is not exempted by **Sec. 38-6.C. Exempted Trees**. See **Sec. 38-6. Tree Preservation**.

**293. Property Line**

The official boundary of a parcel, lot, or tract of land as designated by either a metes and bounds description or subdivision plat filed in the records and maps of the County Clerk's Office.

**294. Public Area**

Any bus bench, bus shelter, landscaped median, trail, park, or arroyo duly recognized by the City.

**295. Public Works Director**

The Director of the City's Public Works Department (or successor department charged with overseeing infrastructure planning, development, and maintenance in the City), as appointed by the City Manager. This term also includes the Director's designee(s).

**296. Pull Box**

A nonmetallic box of a size specified, installed underground at surface level, and used as a junction point for connecting conduit, and as a pull point for electrical circuits.

**297. Queue**

A line of waiting vehicles.

**298. Reasonably Available Control Measures (RACM)**

Techniques used to limit the emission and/or airborne transport of fugitive dust from its original site to accomplish satisfactory results for temporary and/or extended suppression of dust and PM10 emission(s).

**299. Recharge**

The replenishment of underground water reserves.

**300. Reconstruction**

The act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

**301. Record Drawings**

A group of drawings or plans that depicts the final configuration of the installed or constructed improvements of a development, improvements that have been verified by the contractor as their installation or construction occurs during development. The Record Drawings shall reflect the Construction Plans (or working drawings) used, corrected, and/or clarified in the field.

**302. Recreational Vehicle**

A vehicle that is:

(1) Built on a single chassis;

(2) 400 square feet or less when measured at the largest horizontal projections;

(3) Designed to be self-propelled or permanently towable by a light-duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

See #67 Recreational Vehicle Park in **Sec. 36-3.B. Use Classifications and Use-Based Standards**.

**303. Register of Cultural Properties**

The list maintained by City Staff for the City enumerating the physical addresses or locations of designated historically, architecturally, archaeologically, and culturally significant local buildings, structures, objects, and sites.

**304. Registered Landscape Architect**

An individual registered under the Landscape Architects Practice Act to practice landscape architecture in the state. Nothing contained in this definition shall be construed as authorizing a landscape architect to engage in the practice of architecture, engineering, or land surveying as defined by New Mexico Administrative Code, Title 16, Chapter 44, Landscape Architects.

**305. Relative Photometry**

Photometric measurements made of the lamp plus luminaire, and adjusted to allow for light loss due to reflection or absorption within the luminaire.

**306. Release**

Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the MS4 or the waters of the United States or onto the ground in such a manner that a pollutant may be discharged into the MS4.

**307. Relocation**

Any repositioning of a building, structure, or object on its existing site, or the act of moving a building, structure, or object to another site.

**308. Remodel**

The process of altering existing structural components or architectural features and/or finishes of a resource or property; to reconfigure an existing resource or property in such a manner as to remove, cover, replace, or rearrange elements of defining character.

**309. Repair**

Any minor construction undertaken to remedy an existing condition that has deteriorated but otherwise is not defined as construction, alteration, demolition, remodeling, removal, or relocation.

**310. Replat**

A replat or resubdivision that makes changes to a previously approved Final Plat. See **Sec. 37-3.D.2. Replats**.

**311. Residential**

Residential dwellings as defined in the International Residential Code as adopted by the City of Las Cruces.

**312. Retained Fill Depth (Grade Differential)**

The fill depth retained by a retaining wall as measured by the soil surface elevation difference immediately adjacent to both sides of the wall.

**313. Retaining Wall**

An engineered wall constructed of but not limited to brick, block, rock, concrete, MSE, or reinforced concrete to retain over 24 inches of soil or surcharge.

**314. Right-of-Way**

Any land area deeded, reserved, or otherwise acquired by the city, the county, or the state for public use (e.g., roads, streets).

**315. Roadway**

That portion of the street available for vehicular traffic.

**316. Roof**

An overhead structure used for protection or shielding from the sun, rain, or other elements of weather.

**317. Runoff Computation**

Runoff computations for both the ten percent probability and one percent probability storm event shall be submitted with the proposed storm drainage plan. The most recent official federal (ACOE, FEMA, FIS, USDA, USGS, etc.) data and references must be used when analyzing flow that crosses any site.

**318. Safety Factor**

A reasonable engineering design factor increasing a force or load to cover unknown factors/forces that may impact it.

**319. Sand**

A granular material composed of finely divided mineral particles. Sand is defined by grain size; sand grains are smaller than gravel and coarser than silt.

**320. Screening**

The use of a wall, fence, thick shrubbery, or similar materials to minimize the potentially adverse impact of one land use on another. See **Sec. 38-8. Fencing, Screening, and Buffering**.

**321. Seasonal Lighting**

Temporary lighting installed and operated in connection with holidays or traditions.

**322. Service Connection**

The service connection is the terminal end of the municipal water supply system where the customer's water piping system is connected. The service connection for metered water services is attached at the customer's (downstream) side of the water meter. The service connection for the use of a fire hydrant and all other temporary or emergency water services is located at the point of entry to the municipal water supply system.

**323. Setback**

The minimum distance by which any building or structure must be separated from a street right-of-way or lot line.

**324. Shared Use Path**

Shared use paths, also commonly referred to as trails or greenways, are paths designed for and generally used by bicyclists, pedestrians, and other non-motorized users.

**325. Shielded Directional Luminaire**

A luminaire that includes an adjustable mounting device allowing aiming in any direction and contains a shield, louver, or baffle to reduce direct view of the lamp.

**326. Sidewalk**

A pedestrian walkway with permanently improved surfacing. See **Sec. 38-2.M. Sidewalks and Multi-Use Paths**.

**327. Sign**

Any structure or object or part thereof used to advertise, identify, display, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination or projected images.

**328. Significant Cultural Property**

Buildings, objects, sites, or structures of the highest and most unique historical, cultural, architectural, or archaeological importance whose demolition, destruction, or otherwise loss or adverse damage would constitute an irreplaceable loss to a community. Such properties should be identified by the State Historic Preservation Office or registry.

**329. Silt**

A granular material of a size between sand and clay and composed primarily of broken grains of quartz. Silt may occur as a soil or as sediment mixed in suspension with water.

**330. Silt Fence**

A temporary sediment control device consisting of a synthetic filter fabric stretched across and attached to supporting posts and entrenched along its bottom - typically designed for water erosion control.

**331. Site**

The land or water area where any facility or activity is physically located or conducted, including land used in connection with the facility or activity, such as borrow pits and storage areas, and may include land adjacent to the site when utilized by the operator.

**332. Site-Built**

A structure that is constructed from materials brought to the site and modified for assembly. Some materials may be assembled off-site but must be assembled on-site to make a complete structure. This does not include a manufactured home, mobile home, or recreational vehicle.

**333. Site Plan**

A required plan intended to promote the efficient use of land, safe vehicular and pedestrian circulation, appropriate provision of open space, parking, screening, lighting, and other developmental elements. See **Sec. 36-5.B. Site Plans**.

**334. Sketch Plan**

A high-level conceptual sketch used to facilitate discussion during a Pre-Application Meeting. See **Sec. 34-3.B.3. Sketch Plan**.

**335. Slope**

The steepness or degree of inclination of a certain area of land. It can be the steepness between two specific points in a given area, the average of the gradual change in steepness, or an erratic variation in the elevation of the ground.

**336. Slope Protection**

A stable surface added to a slope to provide erosion protection. Slope protection may include grouted rock, concrete facing, gabions, geotextiles, or vegetation.

**337. Solid Waste**

Any garbage, rubbish, refuse, or sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations, from community and institutional activities, and material from transportation-related activities.

Also, solid waste resulting from or incidental to municipal, community, commercial, institutional, or recreational activities, and includes garbage, rubbish, ashes, street cleanings, compost, yard waste, dead animals, abandoned automobiles, and other solid waste other than industrial waste.

**338. Special Use Permit (SUP)**

A Special Use Permit (SUP) is a type of zoning designation that allows certain uses in designated locations subject to additional review and possible conditions to protect public health, safety, and welfare. Uses that require an SUP are indicated as such in **Sec. 36-3.A.1. Permitted Use Chart**. See **Sec. 36-5.C. Special Use Permits (Error! Reference source not found.**s).

**339. Specification**

An explicit set of requirements to be satisfied by a material, product, or service.

**340. Spot Lamp**

A specific form of lamp designed to direct its output in a specific direction (a beam) with a reflector formed from the glass envelope of the lamp itself, and with a clear or nearly clear glass envelope. Such lamps are so designated by the manufacturers, and typically used in residential outdoor area lighting.

**341. Start of Construction**

For other than new construction or substantial improvements under the Coastal Barrier Resources Act (PL 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a portion of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

**342. State Historic Preservation Officer (SHPO)**

The director of the New Mexico Historic Preservation Division, appointed by the Governor, who manages the State's Historic Preservation Plan and coordinates historic preservation activities at all levels of government in the State and with individuals, private organizations, and traditional communities.

**343. State Register of Cultural Properties**

The official list of historic properties worthy of designation in New Mexico; authorized in 1969 and administered by the New Mexico Historic Preservation Division, the register is periodically updated by the Cultural Properties Review Committee.

**344. Stealth Tower**

A tower that is camouflaged to be unrecognizable as a telecommunications facility, including architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structures, antennas integrated into architectural elements such as church spires or window walls, and antenna structures designed to resemble light poles, flagpoles, or trees.

**345. Stop Work Order**

A written order issued by the Building Official to a property owner or the person performing the work to immediately cease all activity on any building, structure, object, or site.

**346. Stormwater**

Precipitation runoff, snow melt runoff, and surface runoff and drainage.

**347. Stormwater Discharge Associated with Industrial Activity**

The discharge from any conveyance that is used for collecting and conveying stormwater and which is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant that is within one of the categories of facilities listed in 40 CFR Section 122.26 (b) (14), and which is not excluded from the U.S. Environmental Protection Agency's definition of the same term.

**348. Stormwater Management**

The use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and peak flow discharge rates.

**349. Stormwater Pollution Prevention Plan (SWPPP)**

An engineered plan to combat potential pollutant sources at a construction site by presenting appropriate measures to prevent or control the pollution of stormwater runoff. It is based on the National Pollutant Discharge Elimination System (NPDES) laws and regulations. Minimum compliance with the SWPPP plan will identify and place best management practices (BMPs) and control measures that are locally available and have been proven successful in the area.

**350. Story**

The same as defined in Chapter 30 of the Las Cruces Municipal Code.

**351. Streamers**

A display made of light, flexible material, consisting of long, narrow, wavy strips. See **Sec. 38-10.D. Prohibited Signs**.

**352. Street**

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

**353. Street Light Circuits**

An underground facility consisting of street light foundations, 1-½ inch connecting conduit, pull boxes, stub-outs, and junction points for electrical service.

**354. Street Line**

The outermost boundary or property line of a street right-of-way that is the mutual property line of abutting properties.

**355. Street Trees**

Trees planted along streets for beautification and benefit of the general public. See **Sec. 38-7.D.1. Parkway & Street Trees**.

**356. Street, Private**

A private roadway that affords the traffic circulation within a development or parcel of land and gives access to uses and structures.

**357. Street, Public**

A public thoroughfare for the principal means of access to abutting property.

**358. Structural Integrity**

An unimpaired condition relating to the functional stability of major building components in relationship to their original or altered function; a measure of the quality of construction and the ability of the structure to function as designed or intended; and the quality or state of being complete or uncompromised.

**359. Structural Requirements**

The safety standards that apply to those signs governed by the requirements in the building code and other companion documents.

**360. Structure**

Any building constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground (e.g., buildings, parking areas, walks, canopies, and signs).

**361. Subdivider**

An owner or an owner's agent who undertakes the subdivision of land as set forth in the respective regulations.

**362. Subdivision**

The division of land into two or more parts by platting or by metes and bounds description into tracts or lots for any purpose.

**363. Substantial Completion**

The stage in the progress of construction when the improvements are sufficiently complete to issue a Building Permit (but not a Certificate of Occupancy) prior to the filing of the Final Plat. Substantial Completion may only occur when there is only minor work remaining. See **Sec. 37-4.D. Substantial Completion**.

**364. Substantial Damage**

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**365. Substantial Improvement**

Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. (See #341 Start of Construction.) This includes structures that have incurred "substantial damage", regardless of the actual repair work performed (see #364 Substantial Damage). The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of federal, state, or local health, sanitary, or safety code specifications that have been identified by the Code Enforcement Officer and which are the minimum necessary conditions, or

(2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**366. Survey**

A systematic gathering of information related to the architectural, historic, scenic, and/or archaeological significance of buildings, structures, objects, and/or landscape features within a specified geographic area through an assessment of field and archival documentation for the purpose of identifying properties that may be designated as cultural properties or historic districts.

**367. Surveyor**

A person who is engaged in the practice of surveying and is qualified to so practice as attested by their legal registration as a professional surveyor in the state.

## F. Terms Defined: T-Z

**368. Taper Length**

The measured length to transition from a travel lane into an adjacent auxiliary lane (i.e., left turn bay, deceleration lane, etc.).

**369. Technical Manual**

The technical manual(s) developed and maintained by the City containing detailed technical standards and requirements. See **Sec. 34-1.F. Technical Manual and Other Technical Resources**.

**370. Temporary Lighting**

Lighting installed and operated for periods not to exceed 60 days, completely removed and not operated again for at least 30 days.

**371. Temporary Sign**

A type of sign intended for a limited period of display. See **Sec. 38-10.G. Sign Types and Supplemental Standards**.

**372. Total Initial Lumens**

The sum of the individual initial lumens output for all the luminaires of an installation. For example, six luminaires with 10,000 initial lumens output per luminaire would equal 60,000 total initial lumens.

**373. Track-out Control**

A device to remove mud or soil from a vehicle before the vehicle enters a paved public road and prevent contamination into an adjacent MS4 city utility(s).

**374. Tract**

A portion of land with defined boundaries created by a deed or other legal instrument.

**375. Traditional Cultural Property**

A cultural property where associated cultural practices or beliefs of a living community occur that are both rooted in a community's history and important in maintaining the continuing identity of the community.

**376. Trail**

A way designed for and used by pedestrians and/or cyclists using nonmotorized bicycles for recreational or transportation purposes.

**377. Traffic Calming Device**

Any modification designed to reduce the speed of traffic on a particular street.

**378. Traffic Calming Study**

An appraisal of existing traffic conditions and the development of a plan for implementing one or more traffic calming devices in a residential neighborhood.

**379. Traffic Control Device**

A sign, signal, marking, or other device used to regulate, warn, or guide traffic placed on, over, or adjacent to a street, highway, pedestrian facility, or shared-use path by authority of a public agency having jurisdiction.

**380. Traffic Count**

A manual or automated count of the number of vehicles traversing a particular street in a given time period.

**381. Traffic Impact Analysis**

An analysis that assesses the effects of specific development activity on the existing and planned thoroughfare system of the City. Abbreviated “TIA”. See **Sec. 38-2.G. Traffic Impact Analysis**.

**382. Translucent**

A material allowing light to pass through but obscures or diffuses the image (not transparent or clear).

**383. Uncontaminated**

Not containing a harmful quantity of any pollutant.

**384. Undisturbed**

Land or property which is in its natural condition and has not been stripped or graded. An exception would be if the property has been revegetated and the soil and vegetative groundcover is now mature.

**385. Unpaved Road**

A road that is not paved with a formal hardened surfacing but instead has a running surface of either crushed gravel or native soil. Such roads are typically for low use and slow traffic. Their ability to produce dust from traffic is well known.

**386. Unshielded Luminaire**

A luminaire that does not meet the definition of "fully shielded" or "partially shielded."

**387. Uplight**

For or an exterior luminaire, flux radiated in the hemisphere at or above the horizontal plane.

**388. Usable Open Space**

Open space within a lot, tract, parcel, or development site, excluding areas devoted to roadways and parking.

**389. Utilities Director**

The Director of the City's Utilities Department, as appointed by the City Manager. This term also includes the Director's designee(s).

**390. Utility Easement**

A grant of a strip or area of land by the property owner, or general public, for the specific purpose of locating or maintaining utility systems.

**391. Vacant Lot**

A parcel of land which contains no buildings or structures of a temporary or permanent nature, excluding perimeter walls or fences.

**392. Vacation**

To void a portion of a previously filed subdivision plat application or to void the filed plat in its entirety.

**393. Vehicular Sign**

A sign attached to, mounted on, or otherwise affixed to any vehicle, whether motorized or drawn, that is placed, parked, or maintained at one particular location for the express purpose and intent of promotion or conveying an advertising message. This description includes but is not limited to mobile billboards and banner signage on parked vehicles. This description does not include bumper stickers, magnetic signage smaller than four square feet, painted messages, or decals.

**394. Violation**

The failure of a structure, site, site feature, or other element regulated by the Development Code to meet the required standards. See **Sec. 34-1.H. Violations and Enforcement**.

**395. Visible Emissions**

Any emission which contains particulate matter which are visually detectable without the aid of instruments.

**396. Wall**

An artificially constructed barrier of solid material such as brick, block, rock, concrete (or reinforced concrete), used to enclose or screen an area.

**397. Water Conservation**

The preservation, control, and management of water. See the City's Water Conservation Program for more information.

**398. Water in the State (or Water)**

Any groundwater, percolating or otherwise, lakes, ponds, impounding reservoirs, springs, rivers, canals, streams, inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state. This includes dry washes, gullies, arroyos, and other ephemeral streams.

**399. Water Quality Standard**

Provisions of the state, territorial, authorized tribal, or federal law approved by the U.S. Environmental Protection Agency that describe the desired condition of a water body, including groundwater, and the means by which that condition will be protected or achieved.

**400. Water Surface Elevation**

The height, in relation to the North American Vertical Datum (NAVD) of 1988 or (other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**401. Watercourse**

A permanent or intermittent stream or other body of water, either natural or human-made, which gathers or carries surface water.

**402. Waters of the United States**

All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide; all interstate waters, including interstate wetlands; all other waters the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce; all impoundments of waters otherwise defined as waters of the United States under this definition; all tributaries of waters identified in this definition; all wetlands adjacent to waters identified in this definition; and any waters within the federal definition of "waters of the United States," at 40 CFR Section 122.2, including the Rio Grande River, dry washes, arroyos, but not including any waste treatment systems, treatment ponds, or lagoons designed to meet the requirements of the federal Clean Water Act.

**403. Well-Drained Soil**

A mixture of sand and rock with only minor amounts of silt and no clay component. Well-drained soil allows water to drain at a moderate rate without water pooling.

**404. Wetland**

An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetland generally includes swamps, marshes, bogs, playas, and similar areas.

**405. Wind Erosion Control Plan (WECP)**

A document used to list control measures to be used for the activities being undertaken to prevent fugitive dust or windblown particulate matter and mitigate the escape of these materials beyond the property lines(s) of the originating site(s).

**406. Wind Fence**

A fence made of small, evenly spaced wooden slats (similar to a snow fence) or fabric. They are erected to reduce wind velocity and to trap blowing sand. They may be used as perimeter controls around open construction sites to keep sediments from being blown off-site. The spaces between the fence slats allow wind and sediment to pass through but reduce the wind's speed, allowing transported soil particles to deposit along the fence.

**407. Wind Speed**

The average wind velocity, regardless of direction, based on a 60-minute average from the nearest weather report or PM10 monitoring station, or by a portable wind instrument located at the site.

**408. Wind Speed Test**

A on-site test of the wind speed measured at zero to two feet above the ground surface. This test is taken and certified by a City of Las Cruces construction inspector or codes enforcement officer using a portable hand-held anemometer standing at a specific approved point within the development (+/- 2 feet).

**409. Yard**

The space on a lot unobstructed by buildings from the ground to the sky, including sidewalks, driveways, patios, and other ground-level surfaces.

**410. Yard, Required Front**

The required yard between the designated front property line and the front setback line.

**411. Yard, Required Rear**

The required yard between the designated rear property line and the rear setback line.

**412. Yard, Required Side**

The required yard between the designated side property line and the side, front, and rear setback lines.

**413. Zoning District**

Any zone of the City designated on the Zoning Map within which certain zoning and land use requirements are specified and are uniform. See **Sec. 36-2. Zoning Districts**.

**414. Zoning Map**

A map that graphically shows all zoning district boundaries and classifications within the City. The Zoning Map is maintained by the Community Development Department. May also be referred to as Zoning District Map, Official Zoning Map, or Zoning Atlas. See **Sec. 36-2.A.2. Zoning Map**.

**415. Zoning Variance**

A mechanism to provide relief from the requirements of **Chapter 36. Zoning Regulations** based on a hardship. See NMSA 3-21-8 and **Sec. 36-5.F. Zoning Variances**.

# Chapter 35. Historic Preservation

## Sec. 35-1. General Information

### A. Short Title

This chapter shall be known and may be cited as "The City of Las Cruces Historic Preservation District and Landmark Ordinance" and may be referred to as "the Historic Preservation Ordinance."

### B. Declaration of Policy and Intent

The City of Las Cruces ("City") declares as a matter of public policy that the protection, preservation, maintenance, care, and use of cultural properties is a public necessity conducive to the general welfare of the people and beneficial to the furtherance of the community's economic prosperity and quality of life. The purposes of this article include, but are not limited to:

1. The promotion, protection, and use of the City's historic building inventory for the education, pleasure, and welfare of residents and visitors;
2. The protection, enhancement, and perpetuation of cultural properties that represent or reflect distinctive and important aspects and eras of human habitation and activity in Las Cruces;
3. The evaluation, recognition, preservation, protection, enhancement, restoration, and promotion of architectural landmarks, cultural properties, and cultural landscapes significant to the City's, region's, state's, and nation's architectural, archaeological, cultural, social, economic, ethnic, and political history, and to develop, enhance, and protect appropriate settings for such places;
4. The enhancement and fostering of civic pride in the aesthetics and history of the built environment and in the accomplishments of earlier inhabitants in the area that became Las Cruces;
5. The integration of historic preservation planning into the City's Comprehensive Plan;
6. The stabilization and improvement of property values as a positive economic development objective that recognizes and protects the rights of owners of historic properties and owners of properties adjacent to landmarks and historic districts;
7. The strengthening of the City's economy through heritage and cultural tourism and real estate for the benefit of residents and tourists through promotion and use of historic buildings and cultural properties; and
8. The avoidance of the irreversible and irreplaceable loss through demolition or neglect of cultural properties that convey a sense of the City's heritage, cultural diversity, and history by encouraging the conservation, through sympathetic rehabilitation and reuse, of historically or architecturally significant properties.

### C. Authority and Jurisdiction

This chapter is created pursuant to the authority set forth in NMSA 1978, Sections 3-22-1 et seq. (as amended), the Historic District and Landmark Act, and NMSA 1978, Sections 18-6A-1 et seq. (as amended), the Cultural Properties Protection Act.

### D. Administration of the Historic Preservation Program

The Community Development Director is responsible for administering these regulations. Within this **Chapter 35. Historic Preservation**, this term may also include another historic preservation professional designated by the City Manager who meets the requirements of NMSA 4.10.10.12.

### E. Alterations or Demolition without a Certificate of Appropriateness

1. It is unlawful to construct, reconstruct, structurally alter, remodel, renovate, restore, demolish, or raze any cultural property in violation of this chapter.
2. In addition to any remedies, a person, corporation, or entity, including the City, is liable to the City if the person demolishes, or causes to be demolished, or otherwise adversely affects the structural, physical, or visual integrity of a cultural property without first obtaining a permit from the Community Development Department and a Certificate of Appropriateness as required in this chapter.
3. Such violations shall be subject to the provisions of **Sec. 34-1.H. Violations and Enforcement**.

### F. Appeals

1. A historic preservation decision by the Community Development Director may be appealed to the Historic Preservation Committee.
2. A historic preservation decision by the Historic Preservation Committee may be appealed to the Planning & Zoning Commission.

## Sec. 35-2. Historic Preservation Committee

### A. Historic Preservation Committee

The Historic Preservation Committee is established by Chapter 2 of the City's Code of Ordinances (Article IV, Division 3, Subdivision XVI).

### B. Duties and Responsibilities of the Historic Preservation Committee

The Committee shall exercise, but not be exclusively limited by, the following duties and responsibilities according to its bylaws:

1. Request input from the Community Development Director regarding surveys within the city limits of the City of Las Cruces to identify properties, neighborhoods, archaeological sites, and buildings for evaluation and potential designation as cultural resources.
2. Recommend to the Mayor and City Council properties to be designated and entered in the City, State, or Federal Register of Cultural Properties.
3. Review and render decisions on Certificates of Appropriateness during open, public meetings.
4. Recommend to the Mayor and City Council the adoption of design guidelines to ensure proper restoration and rehabilitation practices for historic building inventory; to ensure architectural and aesthetic compatibility within historic districts and in proximity to cultural properties; and to guide infill development to achieve comparable aesthetics and massing with existing, neighboring buildings, objects, structures, and sites.
5. Assist in the dissemination of information to the public concerning historic preservation and seek input from groups, individuals, and organizations on these matters.
6. Consider methods for encouraging and incentivizing historic preservation efforts and provide recommendations to these ends to the Mayor and City Council.
7. Advise the Mayor and City Council on any proposed public alterations that may impact the exterior appearance of cultural properties to avoid any potential adverse effects.
8. Consider alternative options and actions when reviewing applications seeking the demolition in part or in whole of designated cultural properties.

9. Advise the Mayor and City Council on the relative merits of proposals involving the use of public funds to restore, preserve, and protect cultural properties, and to secure state, federal, and/or other grants or assistance in support of such projects, and to monitor and comment on such projects during their duration.
10. Seek any benefits that may be granted under the National Historic Preservation Act, as amended, or any other state or federal legislation, including, but not limited to, the benefits that are received from communities under the Certified Local Government (CLG) program with regard to training, grant funding, and technical assistance.
11. Prepare an annual report to be presented to the Mayor and City Council of the Committee's activities and the effects of the historic preservation program on the economic development and general welfare of the City and its residents.

### C. Surveys and Inventories

1. The Community Development Director shall conduct surveys and inventories to identify neighborhoods, areas, sites, buildings, structures, and objects in the City of Las Cruces that possess historic, community, architectural, aesthetic, cultural, archaeological, or traditional importance, interest, or value related to the development of the community.
2. As part of the survey, the Community Development Director shall review and evaluate prior surveys and studies by any government entity or private organization, and recommend the compilation of appropriate research findings, including descriptions, newspapers accounts, land-use records, maps, deeds, photographs, and/or other useful sources.
3. The Committee will provide input regarding the City's efforts in identifying potential cultural properties and historic districts, and apply procedures to nominate those potential cultural properties and historic districts that are at least 50 years of age based on the following criteria:
   a) The potential cultural properties are situated in a single, identifiable neighborhood or distinct geographical area of the community; or
   b) The potential cultural properties are associated with a particular person, event, and/or era of the community's past; or
   c) The potential cultural properties are of a particular architectural style, school, or building technique; or of a particular architect, engineer, builder, designer, craftsman, or artisan; or
   d) Such other criteria as may be adopted by the Committee to assure systematic surveys and inventories of potential cultural properties and historic districts within the municipal boundaries.
4. The Community Development Director shall apply eligibility criteria to potential cultural properties and historic districts and provide recommendations to the Committee to nominate such properties as procedurally outlined in this article for inclusion in the City's Register of Cultural Properties.

### D. Cultural Property Designation

1. Standards for the Designation of a Cultural Property or Cultural Properties

   Upon the successful evaluation of eligibility criteria to base a recommendation for designation, the Committee shall recommend to the City Council a justification for a property's inclusion in the City's Register of Cultural Properties contingent upon that property meeting all of the following requirements:

   a) Located within the corporate boundaries of the City; and
   b) At least 50 years old, in whole or in part, or else of exceptional significance; and
   c) Possesses integrity of design, materials, workmanship, setting, location, feeling, and association, as defined for listing in the National Register of Historic Places; and

d) Embodies such other qualities and characteristics as in the judgment of the Committee should be considered for designation as a cultural property; and

e) Possesses one or more of the following demonstrations of significance:

i) A broad cultural, political, economic, or social association with the historic development of the community, the state, or the nation; and/or

ii) Identification with a historic person or with important events in local, state, and/or national history; and/or

iii) Possesses distinguishing characteristics of an architectural type inherently valuable for the study of a period, style, method of construction, or use of indigenous materials or craftsmanship; and/or

iv) Possesses authenticity of its period of significance as evidenced by the survival of its characteristics, historic fabric, and architectural elements from that period; and/or

v) Is a notable work of a master builder, designer, or architect; and/or

vi) Possesses or may likely yield information important in prehistory or history; and/or

vii) An improvement embodying all or part of the above characteristics which is subject to encroachment of detrimental influences or potential adverse effects; and/or

viii) An improvement of historical, architectural, or cultural significance that is threatened with demolition by public or private action; and/or

ix) Possesses other qualities and characteristics that, in the judgment of the Committee should be considered for designation as a cultural property.

2. Procedure for the Designation of a Cultural Property

Any nomination application for a proposed cultural property shall be subject to the following review process:

a) Pre-Application Meeting

Prior to submitting an application for cultural property designation, an applicant shall meet with the Community Development Director to review the nomination proposal. The Director shall explain to the applicant the procedure and standards to nominate a property for designation, and include the historic context and any known architectural, cultural, or archaeological significance associated with the property. Additionally, when the applicant is not the owner of record, the Director shall encourage the applicant to contact the owner(s) of record prior to proceeding with the application process to secure the owner(s)'s consent.

b) Applicant Eligibility

Nominations for cultural property designation may be made by any property owner(s) of record; a contract purchaser of a nominated property; an individual, a group, or an association; or the Historic Preservation Committee.

c) Property Eligibility

Any building, structure, object, or site that meets the criteria outlined in **1. Standards for the Designation of a Cultural Property or Cultural Properties** is eligible for consideration to be nominated for designation.

d) Owner Consent

In every case, the owner(s) of record must provide written approval of the application. If the applicant is not the owner of record, owner consent must be received before moving forward with the cultural property designation nomination process.

e) Application

Upon the applicant's request, the Community Development Director shall provide a Historic Cultural Properties Inventory (HCPI) Form. The applicant shall complete the form, which shall include, among other information, a

legal description of the building, structure, object, or site. At the applicant's request, the Director may assist with the completion of the designation form.

f) Filing

Upon the applicant's delivery of the completed Historic Cultural Properties Inventory (HCPI) Form, the Community Development Director shall review the application within ten business days of its filing, and notify the applicant in writing of any deficiencies that must be corrected and/or clarified prior to the scheduling of a public meeting. Failure of the applicant to provide amended information within 15 business days of the notice of deficiencies will result in an automatic withdrawal of the application.

g) Notice

Within five business days of the filing of an application, whether or not deemed complete, the Community Development Director shall notify in writing the owner(s) of record of the proposed designation nomination, except in the cases when the applicant is the owner of record, or the owner of record previously provided consent in writing to the Director.

h) Schedule a Public Meeting

Upon receipt of a completed Historic Cultural Properties Inventory (HCPI) Form, the Community Development Director shall schedule a public meeting for the next regularly scheduled meeting of the Historic Preservation Committee in accordance with the Open Meetings Act (NMSA 1978, Section 10-15-1 et seq.).

i) Notice of Public Meeting

Notice of the public meeting shall be published on the City of Las Cruces webpage and in a newspaper of general circulation within the City not less than 15 calendar days in advance of the date of the meeting. The notice shall identify the applicant, property owner(s) of record, legal description of the property, and common address of the property.

j) Mailing

Not less than 15 calendar days prior to the public meeting, the Community Development Director shall mail a written notice to the owner(s) of record of the subject property and the owner(s) of record of all properties within 500 feet. Written notice shall include the date, time, and location of the scheduled public meeting and information regarding access to a digital or written copy of the completed application of the Historic Cultural Properties Inventory (HCPI) Form.

k) Public Meeting Sign

The applicant shall place one sign per frontage upon the public right-of-way adjacent to the property that is the subject of the public meeting at least 15 calendar days in advance of the date of the public meeting .

l) Eligibility Report

Prior to the public meeting on the application for a cultural property nomination, the Community Development Director shall conduct an analysis of the property proposed for designation and prepare a report containing preliminary findings on the historic, cultural, architectural and aesthetic significance of the property. The analysis shall be provided in writing to the Committee and made available to the public in advance of the public meeting.

m) Public Meeting

Applicants shall meet with the Committee and the Community Development Director at a public meeting for a formal recommendation by the Committee regarding the proposed project. The Committee shall conduct the public meeting and a record of such proceedings shall be preserved in such a manner as prescribed by the City of Las Cruces.

n) Withdrawal of Application

An applicant may, at any time during the nomination process, withdraw an application for cultural property designation by providing notice, in writing, to the Community Development Director.

o) Historic Preservation Committee Action

i) At the public meeting, the Committee shall take statements presented by the owner(s) of record of the subject property, as well as statements, either oral or written, from any interested parties concerning the eligibility and/or effect of the potential designation on the proposed cultural property.

ii) The Committee may invite and consider testimony to evaluate information provided either during the nomination process or during the public meeting. A public meeting may be postponed indefinitely or postponed to a date specific in the event that the Committee determines that additional information, unavailable at the public meeting, is warranted and necessary for the purpose of making a finding of fact or to provide time to evaluate fully new evidence presented at the public meeting.

iii) If the Committee fails to act within 45 calendar days of the final adjournment of a public meeting for the designation of a cultural property, the Committee shall be deemed to have recommended denial. Otherwise, upon approval of the cultural property designation application, the Community Development Director or the Committee shall draft a Cultural Property Designation Report for City Council action. Said report shall include a map of the subject property, current and historical photographs, history of the property, plans and drawings (if available and if applicable), and a determination on the eligibility criteria.

p) City Council Action

i) Upon considering the Committee's finding of fact regarding a nomination, the City Council shall grant or deny the Cultural Property Designation Report and application for cultural property designation with a simple majority or greater vote.

ii) Upon designation as a cultural property by the City Council, a notice of the designation will be sent by the Community Development Director to the applicant and/or owner(s) of record of the building, structure, object, or site. The applicant and/or owner(s) of record shall be responsible for providing a copy of the resolution effectuating the designation to the Doña Ana County Clerk’s Office. A copy of the recorded resolution shall be returned to the Community Development Department within 60 calendar days of City Council approval of a cultural property designation. When designated as a cultural property, the property shall be included in the City of Las Cruces Register of Cultural Properties and shall be identified on the City's Geographic Information Systems (GIS) mapping layers with the appropriate shorthand designation as a cultural property.

q) Suspension of Work

During the period beginning with the filing of an application for cultural property designation and ending with the final action of the City Council granting or denying said application, no exterior architectural feature of any building, structure, object, or site that is the subject of an application for cultural property designation may undergo alteration, construction, demolition, or removal if such alteration, construction, demolition, or removal would be subject to a building permit issued after the filing of a cultural property application. Nothing in this subsection shall operate to bar ordinary repair and maintenance or any work that is necessary to prevent or correct an imminently dangerous or hazardous condition.

r) Re-Application Following Denial or Withdrawal of an Application

In the event that an application for cultural property designation is denied by the Committee and/or City Council or the application is withdrawn by the applicant, no subsequent application for cultural property designation of the same building, structure, object, or site shall be made within 12 months of the date of the denial. If the applicant withdraws the application prior to review by the Committee, a subsequent application may be submitted at any time.

s) Amendments

Any property owner of record; a contract purchaser of a nominated property; individual or group of City residents; association with members who are City residents; or the Historic Preservation Committee may request that the designation of a cultural property be amended by the same procedures and according to the same criteria set forth herein for designation. An amended application relating to the same property may be entertained by the Committee at any time following City Council action designating any building, structure, object, or site as a cultural property. Minor, material amendments, excluding boundary amendments, may be completed administratively without a public meeting.

t) Rescinding of Designation

Any property owner of record; a contract purchaser of a nominated property; individual or group of City residents; association with members who are City residents; or the Historic Preservation Committee, on its own initiative and with prior consent of the City Council, may request that the designation of a cultural property be rescinded by the same procedures and according to the same criteria set forth herein for designation. The City Council may rescind cultural property designation of any designated property provided that the vote to rescind the designation is not less than a two-thirds vote of the councilors holding office.

## E. Historic District Designation

1. Standards for Designation of Historic Districts

The Historic Preservation Committee shall not recommend, nor the City Council grant, a designation of a historic district unless each body makes findings based upon the evidence presented to it in each specific case, and that the proposed historic district meets all of the following requirements:

a) Located within the corporate boundaries of the City; and

b) Includes one or more cultural properties along with such other buildings, structures, objects, or sites which, while not of such historical significance to be designated as individual cultural properties, nevertheless contribute to the overall visual characteristics that have been identified as significant within the proposed historic district; and

c) At least 50 years old, in whole or in part, or else of exceptional significance; and

d) Possesses integrity of design, materials, workmanship, setting, location, feeling, and association, as defined for listing in the National Register of Historic Places; and

e) Establishes a sense of time and place; and

f) Includes potentially eligible cultural properties that possess one or more of the following demonstrations of significance:

i) A broad cultural, political, economic, or social association with the historic development of the community, the state, or the nation; and/or

ii) Identification with a historic person or persons or with important events in local, state, and/or national history; and/or

iii) Possess distinguishing characteristics of an architectural type inherently valuable for the study of a period, style, method of construction, or use of local materials or craftsmanship; and/or

iv) Possess authenticity of its period of significance as evidenced by the survival of its characteristics, historic fabric, and architectural elements from that period; and/or

v) Represent a notable work of a master builder, designer, or architect; and/or

vi) Possess or may likely yield information important in prehistory or history; and/or

vii) Possess architectural or land-use characteristics that are repeated throughout the area in a manner which distinguishes the proposed historic district from the rest of the City; and/or

viii) An area embodying all or part of the above characteristics that is subject to encroachment of detrimental influences and potential adverse effects; and/or

ix) An area of historical, architectural, or cultural significance that is threatened with demolition by public or private action; and/or

x) An area with other qualities and characteristics that, in the judgment of the Committee, should be considered for designation as a historic district.

2. Procedure for the Designation of a Historic District

Any nomination application for a proposed historic district shall be subject to the following review process:

a) Pre-Application Meeting

Prior to submitting an application for historic district designation, an applicant shall meet with the Community Development Director to review the nomination proposal. The Director shall explain to the applicant the procedure and standards to nominate an area for designation, and include any known architectural, cultural, or archaeological significance associated with the area. Additionally, the Director shall require the applicant to secure support for the proposed historic district nomination in the form of petition signatures of at least 20 percent of the owners of record within the boundaries of the proposed historic district.

b) Applicant Eligibility

Nominations for historic district designation may be made by any property owner(s) of record; a contract purchaser of a nominated property; an individual or group of City residents; an association with members who are City residents; or the Historic Preservation Committee.

c) Owner Consent

Consent must be attained from at least 20 percent of the owners of record within the boundaries of the proposed historic district, and this support among property owners shall be achieved in the form of gathering signatures on a petition.

d) Application

Upon the applicant's request, the Community Development Director shall provide a Historic Cultural Properties Inventory (HCPI) Form, which shall be completed and contain all of the following information:

i) A map delineating the boundaries of the area proposed for designation;

ii) A written statement setting forth the character of the area and justification for designation of the proposed area;

iii) Drawings or photographs of significant buildings, structures, sites, or objects within the boundaries of the proposed area;

iv) Descriptions of the historic condition and use, existing condition and use, and approximated or exact age of each property within the boundaries of the proposed district; and

v) Such other information as prescribed by the Historic Preservation Committee.

e) Filing

Upon the applicant's delivery of the completed Historic Cultural Properties Inventory (HCPI) Form, the Community Development Director shall review the application within 30 business days of its filing, and notify the applicant in writing of any deficiencies that must be corrected and/or clarified prior to the scheduling of a public meeting. Failure of the applicant to provide amended information within 45 business days of the notice of deficiencies will result in an automatic withdrawal of the application.

f) Notice

Within 15 business days of the filing of an application, whether or not deemed complete, the Community Development Director shall notify, in writing and delivered by certified mail with return receipt, the owners of record within the boundaries of the proposed designation nomination. Said notification shall identify the boundaries of the proposed district and provide a date, time, and location for a public, informational meeting to be convened by the Director not more than 30 business days from the date of the filing of an application.

g) Schedule a Public Meeting

Upon receipt of a completed Historic Cultural Properties Inventory (HCPI) Form, the Community Development Director shall schedule a public meeting for the next regularly scheduled meeting of the Historic Preservation Committee in accordance with the City's notification requirements for public meetings.

h) Notice of Public Meeting

Notice of the public meeting shall be published on the City of Las Cruces webpage and in a newspaper of general circulation within the City not less than 15 calendar days in advance of the date of the meeting. The notice shall identify the legal description of the proposed boundaries, the name of the subdivision(s) (if applicable), and a general description of the area bounded by the proposed historic district.

i) Mailing

Not less than 15 calendar days prior to the public meeting, the Community Development Director shall mail a written notice to the owners of record of all properties within the boundaries of the proposed historic district. Written notice shall include the date, time, and location of the scheduled public meeting and information regarding access to a digital or written copy of the completed application of the Historic District Designation Form.

j) Public Meeting Sign

The applicant shall place one sign upon the public right-of-way adjacent to the boundaries of the proposed district's area at least 15 calendar days in advance of the public meeting’s date.

k) Public Meeting

The Committee shall conduct the public meeting and a record of such proceedings shall be preserved in such a manner as prescribed by the City of Las Cruces. The meeting’s purpose shall be to provide information regarding the details and the potential land-use impacts of the proposed historic district. Owners of record shall be informed of the right to support or object to the proposed historic district. Opportunity for public comments regarding the merits and potential impacts of the proposed historic district will be provided at the public meeting.

l) Withdrawal of Application

An applicant may, at any time during the nomination process, withdraw an application for historic district designation by providing notice, in writing, to the Community Development Director.

m) Owner Objection

In the event that owners of record of the individual real properties within the proposed historic district object to the designation of the proposed historic district, those objections shall be recorded on forms provided by the Community Development Department; completed forms shall be notarized and filed with the City Clerk at any time but not later than 30 calendar days following the final adjournment of the public meeting.

n) Historic Preservation Committee Recommendation

i) At the public meeting, the Committee shall consider statements presented by the owners of record of any property within the boundaries of the proposed historic district, as well as statements, either oral or written, from any interested parties concerning the effect of the proposed designation on the affected properties.

ii) The Committee may invite and consider testimony to evaluate information provided either during the historic district nomination process or during the public meeting. A public meeting may be postponed indefinitely or postponed to a date specific in the event that the Committee determines that additional information, unavailable at the public meeting, is warranted and necessary for the purpose of making a finding of fact or to provide time to evaluate fully new evidence presented at the public meeting.

iii) The Committee shall make written findings of fact and shall assist the Community Development Director to submit same in the form of a Historic District Designation Report, together with its recommendation, to the Planning & Zoning Commission within 45 calendar days following the close of the public meeting.

iv) If the Committee fails to act within 45 calendar days of the final adjournment of a public meetingfor the designation of a historic district, the Committee shall be deemed to have recommended denial. Otherwise, upon approval of the historic district designation application, the Community Development Director shall draft a Historic District Designation Report for Planning & Zoning Commission action. Said report shall include a map of the proposed district's boundaries, current and historical photographs, histories of the properties, plans and drawings (if available and if applicable), and a determination on the eligibility criteria.

o) Planning & Zoning Commission Recommendation and City Council Action

i) The Planning & Zoning Commission shall consider recommendation and City Council shall consider action in accordance with **Sec. 36-5.A. Zoning Map Amendments**.

ii) When no owner objection is filed in accordance with this chapter, the Committee or Council shall grant or deny the nomination for historic district designation with not less than a majority vote. When an owner of record, or owners of record, properly file objections with the City Clerk in accordance with this chapter, the Committee or Council may grant the proposed designation upon the condition that demonstrable support of the designation by a simple majority of owners of record within the proposed historic district's boundaries can be presented.

iii) Upon designation as a historic district by the City Council, a notice of the designation will be sent by the Community Development Director to the owners of record of the properties within the boundaries of the designated district. The owners of record shall be responsible for providing a copy of the resolution effectuating the designation to the Doña Ana County Clerk’s Office. A copy of the recorded resolution shall be returned to the Community Development Department within 60 calendar days of City Council approval of a historic district designation. When designated as a historic district, the historic district shall be included in the City of Las Cruces Register of Cultural Properties and shall be identified on the City's Geographic Information Systems (GIS) mapping layers with the appropriate shorthand designation as a historic district.

p) Suspension of Work

i) During the period beginning with the filing of an application for historic district designation and ending with the final action of the City Council granting or denying said application, no exterior architectural feature of any building, structure, object, or site that is the subject of an application for historic district designation may undergo alteration, construction, demolition, or removal if such alteration, construction, demolition, or removal would be subject to a building permit issued after the filing of a historic district application. Nothing in this subsection shall operate to bar ordinary repair and maintenance or any work that is necessary to prevent or correct an imminently dangerous or hazardous condition.

ii) Re-application following denial or withdrawal of an application. In the event that an application for historic district designation is denied by the City Council or the application is withdrawn by the applicant, no subsequent application for historic district designation shall be made within 12 months of the date of the denial. If the applicant withdraws the application prior to review by the Historic Preservation Committee, a subsequent application may be submitted at any time.

q) Amendments

Any property owner of record; a contract purchaser of a nominated property; individual or group of City residents; association with members who are City residents; or the Historic Preservation Committee, on its

own initiative and with prior consent of the Planning & Zoning Commission, may request that the designation of a historic district be amended by the same procedures and according to the same criteria set forth herein for designation. An amended application relating to the same district may be entertained by the Committee at any time following City Council action designating a historic district. Minor, material amendments, excluding boundary amendments, may be completed administratively without a public meeting.

## F. Review Standards for Cultural Properties

In making recommendations for proper and accepted treatments for the rehabilitation and restoration of cultural properties and older building inventory, the Historic Preservation Committee shall be governed by the following review standards and design principles:

1. Standards for Review of Cultural Properties

   The review of plans for changes affecting the exterior appearance of designated cultural properties shall be based upon the Secretary of the Interior's "Standards for Rehabilitation" as follows, as amended:

   a) A property shall be used for its historic purpose or be placed in a new use (i.e., adaptive reuse) that requires minimal change to the defining characteristics of the building and its site and environment.

   b) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of exterior features and spaces that characterize a property shall be avoided.

   c) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

   d) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

   e) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

   f) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

   g) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

   h) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

   i) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

   j) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

2. Design Principles for Cultural Properties

   a) Any new construction such as primary buildings, secondary, and accessory buildings and additions to historic buildings and structures at a cultural property or at a property within a designated historic district shall conform, subject to the restrictions of **Chapter 36. Zoning Regulations**, to the following general design principles:

i) Relationship of Building Mass and Space

The relationship between the open space between existing structures and adjoining structures shall be proportionate to and compatible with the adjacent neighborhood;

ii) Scale of Structure

The scale of any alterations, modifications, or additions, or of any new construction shall be compatible with the existing, surrounding structures;

iii) Height

The height of any proposed alteration, addition, or new construction shall be compatible with the existing structure and with neighboring structures;

iv) Directional Expression of Principal Facade

Any proposed alteration or new construction shall be compatible with the predominant horizontal or vertical expression of the historic structure and, for wholly new construction, the predominant horizontal or vertical expression along the street block;

v) Proportions of Street-Facing Facades

The relationship between the width and height of any historic structure and any proposed modification, alteration, or addition at a street-facing façade shall be compatible with one another and the relationship between the width and height of any proposed new structure shall be compatible with nearby structures;

vi) Relationship of Windows and Doors

The relationship between and among doors and windows shall be compatible with and in proportion to each other and be compatible with the historic character of such elements;

vii) Architectural Details

Architectural details and materials shall be incorporated, as necessary, to relate new construction with historic construction to preserve and enhance the inherent characteristics of the historic property and/or neighboring properties; and

viii) Roof Form

The design of any roof shall be compatible with the roof forms and materials of the historic roof of any existing improvement, building, structure, or object.

b) In addition to the foregoing, the Historic Preservation Committee will apply review standards as further set forth in any policy, preservation plan, or design guidelines adopted by the Committee; the U.S. Secretary of the Interior's Standards for Rehabilitation, as amended; and/or the National Park Service's Guidelines for Rehabilitating Historic Buildings, each as amended from time-to-time.

3. Standards for Adaptive Reuse

a) Adaptive reuse is a process that transforms a disused or ineffective structure into something that can be used for a different purpose. Sometimes, nothing changes except the item’s use. The adaptive reuse of a historic building should have minimal impact on its heritage significance and setting. Adaptive reuse recognizes the need for the historic property to meet continuing changes in the community while retaining the property’s historic character.

b) By reusing an existing building, the energy required to create these spaces, the material waste generated from the tenant improvement, and the use of new materials are lessened. The revitalization of buildings through reuse or repurposing also helps to stabilize neighborhoods and preserve the City’s historic character and architecture, reduce the environmental hazards and costs associated with new construction, and enhance economic growth with new housing and employment opportunities. Communities further benefit from the

added values of context, culture, history, and ambiance, resulting in true community redevelopment and sustainability.

c) With regard to the applications for adaptive reuse of a cultural property, the following matters shall be considered:

i) Its historical, architectural, cultural, and aesthetic significance;

ii) Its use, its intended use, and/or the use for which the cultural property was originally designed; new construction, addition, repair, or maintenance not associated with a change of use or occupancy classification do not qualify as an adaptive reuse project;

iii) All adaptive reuse projects are subject to review by the Historic Preservation Committee. The Committee will review the project for overall design, exterior materials, zoning requirements, and health and safety factors to ensure that it meets the requirements and will result in a functional and attractive addition to the local neighborhood and to the City.

iv) Adaptive reuse projects are complex and challenging. Even if all of the above steps are completed, given the nature of existing historic structures, unforeseen complexities are to be expected during construction. Because of this, regular communication with the building inspector during construction will be vital to ensure that potential delays are minimized or reduced.

4. Standards for Requests for Demolition

With regard to applications to demolish a cultural property, the following matters shall be considered:

a) Its historical, architectural, cultural, and aesthetic significance.

b) Its use, its intended use and/or the use for which the building, structure, object, or site was originally designed and the feasibility of the continuation of its designed use.

c) Its importance and the extent to which its historical or architectural value is such that its removal will be detrimental to the public interest.

d) The extent to which it is of such unusual or uncommon design, craftsmanship, texture, or material that it could not be reproduced or could be reproduced only with great difficulty.

e) The extent to which its retention would be of economic value, attract tourists, educate citizens regarding the City's heritage, or make the City a more attractive and desirable place to live.

f) The probable impact of its removal upon the ambience and integrity as a cultural resource.

g) The structural soundness and integrity of the building, structure, object or site and the economic feasibility of its restoration or rehabilitation so as to allow for its reasonable use.

h) The threat to public health and safety as a result of deterioration or disrepair of the building, structure, object, or site, excluding demolition by neglect.

i) The technological feasibility of structural rehabilitation.

5. Criteria Regarding Relocation of Cultural Properties

The following factors shall be considered with regard to an application to move to a new location or site any cultural property:

a) The impact of the loss of integrity suffered as a result of removal from the original location; and, if located within a historic district, the impact of that loss of integrity upon the district as a whole.

b) The relative value to the applicant of the proposed relocation contrasted to the value to the community as a whole in allowing it to remain at its original and/or historic site.

c) The compatibility, nature, and character of the areas adjacent to both the present site and the proposed site as they relate to the protection of historic properties and districts.

d) In the event that a proposed new location is in a historic district, the impact on the visual compatibility of adjacent buildings, structures, objects, or sites.

e) The likelihood of significant damage to the physical integrity of the building or structure itself.

### G. Review of Proposed National Register of Historic Places Nominations

1. Before a property located within the municipal boundaries of the City of Las Cruces may be considered for inclusion in the National Register of Historic Places, the State Historic Preservation Officer (SHPO) or designee in the New Mexico Historic Preservation Division (NMHPD) shall notify the applicable chief local elected official and the Historic Preservation Committee according to the following procedure:

   a) The SHPO/NMHPD shall forward a copy of the completed National Register nomination to the City for all properties located in the City's jurisdiction within 30 calendar days of receipt unless the City initiated the nomination. If the City initiates its own nomination, it shall provide the completed nomination to SHPO/NMHPD within 30 days of completion.

   b) Within 60 days, the Committee shall provide opportunity for public comment by including the National Register nomination on the agenda of the next regularly scheduled public meeting.

   c) The Committee shall prepare a report regarding the eligibility of the property and whether or not, in its opinion, the property meets the criteria for listing in the National Register of Historic Places.

   d) Within 60 days of notice from the SHPO/NMHPD, the chief local elected official shall transmit the report of the Committee and the elected official's recommendation to the SHPO/NMHPD.

   e) If either or both the Committee and the Mayor agree that the property should be nominated, the nomination will be scheduled for review by the Cultural Properties Review Committee and make the report and recommendations available to the Secretary of the Interior.

2. If both the Committee and the chief elected official recommend that a property not be nominated to the National Register of Historic Places:

   a) The SHPO/NMHPD shall take no further action, unless within 30 days of the receipt of such recommendation an appeal is filed with the SHPH/NMHPD.

   b) If such an appeal is filed, the SHPO/NMHPD shall follow the procedures for making and submitting a nomination.

   c) Any report and recommendations made that the property should not be nominated shall be submitted to the Secretary of the Interior.

## Sec. 35-3. Plan Review, Certificates of Appropriateness, and Economic Hardship

### A. Plan Review of Cultural Properties

1. Plan review shall be completed for any new construction, addition, remodeling, rehabilitation, renovation, restoration, or proposed demolition of the exterior of any building, structure, object, or site that meets the following criteria:

   a) Visible from a public right-of-way, excluding public alleyways at the rear of a property; and

   b) Proposed for an individually designated cultural property or for any property within a designated historic district; and

   c) Requires a Building Permit as defined by the Building Code (see Chapter 30 Buildings and Building Regulations of the Las Cruces Municipal Code).

   d) Plan review submittal requirements and review standards are based on the property location within the City; the age of the property; and the contributing element of the property as assigned by survey, as amended every 10 years.

   e) Every reasonable effort shall be made to provide a compatible use for any designated cultural property. The destruction, alteration, or removal of original distinguishing elements or architectural features of a building, structure, object, or site and its environment shall be avoided.

   f) Each applicant may request one or more pre-application meetings with the Community Development Director to review proposed scopes of work and compliance with historic preservation design standards, building codes, zoning requirements, and other applicable regulations.

   g) Submittal requirements identified herein satisfy historic compliance review but shall not be construed to reflect the submittal requirements of other review authorities. Applicants should consult with appropriate City staff prior to submitting an application for building permit application review.

**Figure 35-3-1. Building Permit and COA Process Summary**




2. Procedure to Apply for Building Permits and Certificates of Appropriateness

   Any application for a Building Permit to undertake any work at a designated cultural property shall be subject to the following review process:

   a) Application for a Building Permit to Alter an Existing Structure

      Applicants shall provide the following information as part of a Building Permit application:

      i) A completed Building Permit application and a completed Certificate of Appropriateness application; and

      ii) A site map or aerial view of the parcel of land on which the subject building, object, structure, site, or improvement is located; and

      iii) Photographs of the current exterior condition of the subject area; and

      iv) Historic images of the subject property, if available; and

      v) Material samples and/or product specifications for any proposed new or repair materials including, but not limited to, siding materials and installation pattern; masonry color, texture, and bonding pattern; roof shingles; major architectural elements (e.g., doors, windows, columns, decorative architectural features, etc.); and

vi) Drawings and/or specifications detailing the proposed scope of work including, but not limited to, building elevations, plans, and significant architectural details; and

vii) Other reasonable information that may be requested by the Community Development Director.

Information submitted for review by the Historic Preservation Committee must be provided in a format as required by the Community Development Director but not less than one printed copy of all requested documentation; one sample of proposed materials; and one electronic or digital copy (only jpeg or gif format unless another format is approved prior to submittal; any electronic submittal must be clearly legible when printed at 11-inch by 17-inch format).

b) Fees

Fees shall be calculated and collected by the City. Applicable deposits and fees shall be set by resolution and collected according to the current fee schedule for building permits.

c) Filing

The Certificate of Appropriateness application shall be submitted to the Community Development Director. Upon receipt of all required information, the application will be determined to be complete, and the Director shall schedule a meeting before the Historic Preservation Committee to review and render a decision on the application.

d) Plan Review of Cultural Properties and Historic District Properties

i) Certificate of Appropriateness applications for all other requests shall be reviewed by the Historic Preservation Committee with a public meeting as outlined below.

ii) All proposed alterations shall be evaluated in accordance with **Sec. 35-2.F. Review Standards for Cultural Properties**.

e) Schedule a Public Meeting

Upon receipt of a completed Certificate of Appropriateness application, the Community Development Director shall schedule a public meeting for a regularly scheduled meeting of the Historic Preservation Committee in accordance with the City's notification requirements for public meetings.

f) Appropriateness Report

Prior to the public meeting on the Certificate of Appropriateness application, the Community Development Director shall conduct an analysis of the subject property and prepare a report containing preliminary findings on the historic, cultural, architectural and aesthetic significance of the property. The analysis shall be provided in writing to the Committee and made available to the public in advance of the public meeting.

g) Public Meeting

The Committee shall conduct the public meeting and a record of such proceedings shall be preserved

h) Withdrawal of Application

An applicant may, at any time during the review process, withdraw a Certificate of Appropriateness application by providing notice, in writing, to the Community Development Director.

i) Historic Preservation Committee Action

The Committee shall act upon completed Certificate of Appropriateness applications in a timely manner. The Committee may request modifications to the proposed scope of work as a condition of approval of a Certificate of Appropriateness; it may approve the application without modifications; or it may deny the application. No decision rendered by the Committee shall conflict with provisions in **Chapter 36. Zoning Regulations**.

j) Issuance of a Certificate of Appropriateness

Upon the approval of a Certificate of Appropriateness application, either administratively or by the Committee, the Community Development Director shall issue a Certificate of Appropriateness to the applicant as a component, and in conjunction with other requirements, to be issued a building permit.

k) Suspension of Work

During the period beginning with the filing of a Certificate of Appropriateness application and ending with the final action taken on the Certificate of Appropriateness, no exterior architectural feature of any building, structure, object, improvement, or site that is the subject of an application may undergo any alteration or construction, if such work would be subject to plan review and issuance of a Building Permit.

l) Final Inspection

The Building Official and/or Building Inspector(s), in consultation with the Community Development Director, shall complete, prior to issuance of a Certificate of Occupancy, an inspection of any work approved under a Certificate of Appropriateness to ensure compliance with the approvals granted by the Committee or on its behalf. Nothing in this subsection shall operate to bar repair and maintenance or any work that is necessary to prevent or correct an imminently dangerous or hazardous condition.

m) Lapse of a Certificate of Appropriateness

An approved Certificate of Appropriateness shall be valid for one year from the date of issuance to the applicant to complete the proposed scope of work. In the event the applicant is unable to complete the approved scope of work, the Community Development Director may approve up to one six-month extension to complete the scope of work. In the event the approved scope of work remains incomplete upon the expiration of 18 months since issuance, the applicant will be required to submit a new Certificate of Appropriateness application.

## B. Plan Review for Municipal-Owner Cultural Properties

Plan review shall be completed for any new construction, addition, remodeling, rehabilitation, renovation, or restoration, or proposed demolition of the exterior of any building, structure, object, or site, or historic interior, of any cultural property owned by the City of Las Cruces, in accordance with the following criteria:

1. The plan review process shall adhere to the procedures as stated in **Sec. 35-3.A. Plan Review of Cultural Properties**; and
2. The proposed scope of work shall be reviewed by the Community Development Director and/or the Historic Preservation Committee in accordance with **Sec. 35-2.F. Review Standards for Cultural Properties**.

## C. Demolition of Cultural Properties

1. Requests for demolition of any portion of or the entirety of any building, structure, site, or object deemed significant shall require review by the Historic Preservation Committee. Criteria used to assess significance include:
   a) More than 50 years of age;
   b) Designed and/or constructed by a particular architect or builder, either by itself or in context of a group of buildings or structures;
   c) A naturally occurring land or geological formation that has been designated as a cultural property or is located within the boundaries of a designated historic district.
2. Deconstruction and reuse of historic materials is preferred over demolition. Demolition shall be considered only when all other redevelopment options for a building, structure, object, or site have been exhausted.

3. Procedure for the demolition of designated cultural properties.

   Demolition review begins with the filing of an application for a demolition permit and applies to any demolition, alterations, or new construction that involved total or partial demolition. During review, as assessment of the historical and/or architectural importance of the building, structure, and/or feature will be determined. The Historic Preservation Committee is responsible for determining the significance of the resource and whether it qualifies for preservation or demolition.

   a) Pre-Application Meeting

      Prior to submitting a demolition request, an applicant shall meet with the Building Official, Community Development Director, and/or other City Staff to review the demolition proposal. At that time, the Community Development Director shall identify to the applicant any known historic significance classification or documentation pertaining to the property.

   b) Application

      All applications for a demolition permit shall be submitted on forms provided by the Community Development Director. No demolition permit application shall be accepted for processing unless it is complete and is accompanied by all applicable fees, deposits, and bonds. A complete demolition permit application shall contain the following:

      i) A legible, dimensioned, and accurate Plat of Survey, prepared and sealed by a New Mexico licensed surveyor within 12 months of application, indicating location of all improvement proposed for demolition;

      ii) Written affidavit of the owner(s) of record of the property acknowledging the proposed demolition when the applicant is not the owner of record;

      iii) Plans of all levels of the building or structure proposed to be demolished;

      iv) Photographs of all existing conditions including all exterior elevations, all significant architectural features (exterior and interior), and all rooms or spaces (exterior and interior) affected by the proposed demolition work;

      v) Historic images of the property and general area of proposed demolition, if any available;

      vi) A detailed report of non-code-compliant elements and structural deficiencies, prepared by a registered architect, structural engineer with expertise in the rehabilitation of contemporary and/or historic properties, or an expert in adobe construction when applicable;

      vii) A detailed list of irreparable or deteriorated building features, components, or elements;

      viii) A detailed cost estimate for the rehabilitation of the improvement, property, or site, prepared by a design professional or licensed contractor with expertise in the renovation of contemporary and/or historic properties;

      ix) A comparison of the estimated rehabilitation cost of the property proposed for demolition with market values for comparable improvements, properties, or sites within the municipal boundaries;

      x) A detailed cost estimate for the restoration of the site per City code in the event that no new construction activity commences following demolition;

      xi) A summary of potential sites, if any, to which the resource could be relocated within the historic district with an estimate of the cost of the move to each proposed location, if any, by a qualified building mover;

      xii) A proposed schedule for demolition activities;

      xiii) A completed Building Permit application and a written justification outlining the reasons demolition is sought; and

      xiv) Other reasonable information required or that may be requested by the Community Development Director.

c) Fees

Fees shall be calculated and collected by the Community Development Department. Applicable deposits and fees shall be set by resolution and collected according to the current fee schedule for building permits.

d) Filing

An application for demolition shall be filed with the Building Official and the Community Development Director. Within ten business days of the filing of an application, the Community Development Director shall review the submitted application for demolition and inform the applicant, in writing, of any deficiencies that must be corrected and/or clarified prior to the scheduling of a public meeting. Failure of the applicant to provide amended information within 30 business days of the notice of deficiencies will result in an automatic withdrawal of the application.

e) Notice

i) Upon receipt of a complete demolition application, the Community Development Director shall schedule a public meeting for any cultural property or property located within a historic district, except for those properties designated as noncontributing due to a lack of architectural, historic, or structural significance or integrity, at a regularly-scheduled meeting of the Committee no sooner than 180 days from the acceptance of a completed application. Demolition permit applications for noncontributing buildings with no architectural, historical, or structural significance or integrity shall be reviewed at a regular public meeting.

ii) The applicant may request an additional public meeting to occur within the 180-day period to receive preliminary feedback from the HPC regarding the demolition application. HPC feedback at this meeting is intended to provide general opinion and is considered nonbinding. No official action will be taken by the HPC at this meeting. Notice shall be provided as indicated in **f)** below.

f) Notice of Public Meeting

Notice of a public meeting shall be published on the City of Las Cruces webpage and in a newspaper of general circulation within the City not less than 15 calendar days in advance of the date of the meeting. The notice shall identify the applicant, property owners of record, legal description of the property where demolition work is proposed, and the common address of the property where demolition work is proposed.

g) Public Meeting Sign

The applicant shall place one sign at the public right-of-way adjacent to the property that is the subject of the public meeting at least 15 calendar days in advance of the date of the public meeting. Said sign shall include the words "Proposed for Demolition" in addition to the date, time, and place of such public meeting.

h) Mailing

Not less than 15 calendar days prior to the public meeting, the Community Development Director shall mail a written notice to the owners of record of the property proposed for demolition and to the owners of record of all properties identified herein for notification within 500 feet. Written notice shall include the date, time, and location of the scheduled public meeting and information regarding access to a digital or written copy of the demolition application.

i) Property Analysis

i) Prior to the public meeting, the Community Development Director shall visit the site to familiarize themselves with the existing condition of the property proposed for demolition.

ii) Prior to the public meeting for the purpose of reviewing a demolition application, the Community Development Director shall conduct an analysis of the submitted documents and a written summary of the site visit as part of a written report containing preliminary findings on the historical, architectural, cultural, and aesthetic significance of the subject property. The analysis shall be provided to the Committee, in writing, and made available to the public in advance of the public meeting.

j) Public Meeting

i) The public meeting for the purpose of reviewing a demolition application shall be conducted by the Historic Preservation Committee and a record of such proceedings shall be preserved in such manner as the Committee shall, by rule, prescribe from time to time.

ii) The applicant bears the burden of proof that the failure to approve the proposed demolition would leave the subject property without an economically viable use, and that the sale, rental, or rehabilitation of the property is not possible, resulting in the property being incapable of earning any reasonable economic return.

k) Withdrawal of Application

An applicant may, at any time prior to the scheduled public meeting , withdraw an application for demolition by providing notice, in writing, to the Community Development Director or the Building Official.

l) Historic Preservation Committee Action

i) The Committee shall not only consider the property, building, structure, architectural feature, or object proposed for demolition; the merit of any proposed replacement construction or improvement shall also be a standard of review for a demolition request. The Committee may solicit testimony to evaluate information provided either as part of a demolition application or at the public meeting . A public meeting may be postponed indefinitely or postponed to a date specific in the event that the Committee determines that additional information, unavailable at the public meeting, is warranted and necessary for the purpose of making a finding of fact.

ii) Additionally, the Committee may continue a public meeting during a subsequent regularly scheduled meeting of the Committee to provide time to fully evaluate new evidence presented at the public meeting. Furthermore, the Committee may continue a public meeting regarding a request for demolition for a specified period of time, not to exceed 120 calendar days, for the sole purpose of allowing the applicant and the Committee to seek alternatives to demolition when the Committee determines that all of the following conditions exist:

a. The property itself, or in relation to its environs, has significant historical, architectural, aesthetic or cultural value in its present condition;

b. Realistic alternatives for preservation of the property—including adaptive uses—are believed to be neither cost-prohibitive nor beyond the limits of local market value; and

c. The property, in its existing condition, does not present a public health or safety hazard to individuals, neighboring properties, or the greater community.

iii) When the Committee postpones a recommendation regarding a demolition request, the Committee shall retract said postponement when the Committee determines that an applicant has:

a. Made a bona fide and reasonable, but unsuccessful, effort to locate a purchaser for the property who is willing to preserve, rehabilitate, or restore the improvement, property, or site;

b. Made a bona fide and reasonable, but unsuccessful, effort to locate a purchaser for the improvement who is willing and able to relocate the improvement to another property or site;

c. Made a bona fide and reasonable, but unsuccessful, effort to develop a cost-effective program for the preservation of the improvement; and

d. Agreed to accept a demolition permit on specified conditions of the Committee.

iv) If the cultural property qualifies as significant, the demolition delay period will start in order to provide time to document the resource and to explore preservation alternatives. If all alternatives have been reviewed, the applicant, as a condition of demolition approval, will prepare and submit, prior to commencement of demolition work, the following documentation of a building, structure, object,

improvement, or site that is designated as a cultural property or identified as a contributing or significant property within a designated historic district:

a. Site plan (scale not less than one inch equals twenty feet, zero inches);

b. Floor plans of each level (scale not less than one-eighth of one inch equals one foot, zero inches);

c. Elevations of each side of the property improvement (scale not less than one-eighth of one inch equals one foot, zero inches); and

d. Photographs of each elevation and significant interior or exterior architectural features as determined by the Committee (clear, black and white images).

v) The Committee shall make written findings of fact within 45 calendar days following the close of the public meeting.

vi) The Committee may grant a demolition request for a cultural property or a property within a historic district if, upon review of all testimony, the maintenance, use, and/or alteration of the property would cause immediate and substantial hardship for the owner(s) of record because rehabilitation in a manner which preserves the architectural, historic, or structural integrity of the property either:

a. Is infeasible from a technical, mechanical, or structural perspective; or

b. Would leave the property with no reasonable economic value because it would require an unreasonable expenditure when accounting for such factors as current market value, permitted uses of the property, and/or the cost of compliance with local, state, and federal codes applicable to the property.

vii) The Committee, by a simple majority vote, shall grant or deny the application for demolition.

m) Suspension of Work

During the period beginning with the filing of an application for demolition and ending with the final action of either the Historic Preservation Committee or the City Council, granting or denying said application, no exterior architectural feature of any building, structure, object, improvement, or site that is the subject of an application for demolition may undergo alteration, construction, demolition, or removal. Nothing in this subsection shall operate to bar ordinary repair and maintenance or any work that is necessary to prevent or correct an imminently dangerous or hazardous condition.

n) Site Restoration

Upon completion of any approved demolition, a site must be restored and maintained as required by City code until construction activity resumes at the property.

o) Lapse of Demolition Approval

Any approval granted by the Committee or City Council for the demolition, in whole or in part, of any building, structure, object, improvement, or site shall be valid for a period of 12 months from the date of the issuance of a demolition approval. Failure to complete the approved work in a timely fashion will require the re-application for approval of any outstanding demolition work.

4. Standards for Demolition Request Review

The Historic Preservation Committee shall make findings related to a demolition request based upon the evidence presented to it in each specific case and shall not approve a proposed demolition unless demolition action improves or corrects one or more of the following conditions:

a) The property constitutes a hazard to the safety and welfare of the general public or occupants of the property or site as determined, in consultation with the Community Development Director, by the Building Official, Code Enforcement Officer, Chief of Police, and Fire Chief and providing the property was not subject to demolition by neglect;

b) The property is a deterrent to a major improvement program that will be of substantial benefit to the community for which the applicant has secured all necessary and required planning and zoning approvals, environmental clearances, and project funding and providing the property was not subject to demolition by neglect;

c) Retention of the property will cause undue economic hardship to the Owner of Record when a governmental action, an act of God, or other events beyond the control of the applicant created the hardship and all feasible alternatives to eliminate the financial hardship (which may include the sale of the property at fair market value or relocation of the improvement to another site) have been attempted and exhausted by the applicant; or

d) The retention of the property is not in the best interest of the majority of the community.

5. Demolition by Neglect and Deferred Maintenance

Buildings, structures, and objects designated as a Cultural Property or lying within the boundaries of a historic district shall be maintained and protected from demolition that results from neglect or undeterred deterioration of the exterior features or structural elements.

a) Duty to Maintain

Any building, structure, or object designated as a cultural property or lying within the boundaries of a historic district shall be preserved against material deterioration of exterior features and structural elements by its owner of record. Nothing in this chapter shall exempt an improvement designated as a cultural or historic property from compliance with the provisions of the City's adopted Property Maintenance Code.

b) Duty to Repair

The owner of record (private or City) for any building, structure, or object designated as a cultural property shall, upon written notice from the Code Enforcement Officer, or other representative on behalf of the City, repair any deficient element that is contributing to material deterioration, including, but not limited to, damage to or decay of:

i) Foundations, flooring, or floor supports that causes leaning, sagging, splitting, listing, or buckling of all or part of the building, structure, or object;

ii) Walls or other vertical supports that causes leaning, sagging, splitting, listing, or buckling of all or part of the building, structure, or object;

iii) Ceilings, roofs, and their support systems or other horizontal members, that causes leaning, sagging, splitting, listing, or buckling of all or part of the building, structure, or object;

iv) Fireplaces or chimneys that causes leaning, sagging, splitting, listing, or buckling of all or part of the building, structure, or object;

v) Exterior finishes, including, but not limited to, wood, brick, stone, stucco, mortar, or other material;

vi) Any design detail, significant feature, or structural element that results in any appreciable loss of architectural, historic, or structural integrity of the building, structure, or object;

vii) Any window, window frame, door, or doorway that, individually or collectively, results in any appreciable loss of architectural, historic, or structural integrity of the building, structure, or object;

viii) Any feature intended to provide a watertight condition that results in significant moisture infiltration into the building, structure, or object;

ix) Any feature or element that results in the creation of a fire hazard or other nuisance to the welfare of the general public; or

x) Any archaeological site or vacant cultural property shall be adequately secured against unauthorized entry.

c) Completed Repair

Upon notice from the Codes Enforcement department, the Historic Preservation Committee shall verify, within 45 days, that the duty to repair was completed.

6. Natural Destruction or Demolition

In the case of partial or complete destruction or demolition of a cultural property as a result of an act of God or other natural disaster, the property may be completely demolished only with Committee concurrence, provided that the Building Official, Fire Department Chief, and Chief of Police, in consultation with the Community Development Director, jointly determine the improvement is structurally unsound and poses an immediate or imminent nuisance and/or hazard to the general health, safety, and welfare of the public.

## D. Certificate of Economic Hardship

In any case in which the proposed work of an applicant is not approved following either administrative or Historic Preservation Committee review and the submittal of a written findings of fact, an applicant may apply for a Certificate of Economic Hardship.

1. Procedure to Apply for a Certificate of Economic Hardship

a) Pre-Application Meeting

Prior to submitting a Certificate of Economic Hardship request, an applicant shall meet with the Community Development Director to review the basis for economic hardship relief.

b) Application

All applications for a Certificate of Economic Hardship shall be submitted on forms provided by the Community Development Director. No Certificate of Economic Hardship application shall be accepted for processing unless it is complete and is accompanied by all applicable items required.

c) Filing

The application for a Certificate of Economic Hardship shall be filed with the Community Development Director. Within ten working days of the filing of an application, the Director shall review the submitted application for a Certificate of Economic Hardship and inform the applicant, in writing, of any deficiencies that must be corrected and/or clarified prior to the scheduling of a public meeting. Failure of the applicant to provide amended information within 30 working days of the notice of deficiencies will result in an automatic withdrawal of the application.

d) Notice

Upon receipt of a complete Certificate of Economic Hardship application, the Community Development Director shall schedule a public meeting at the next regularly scheduled meeting of the Committee that is possible in accordance with the stipulated public notice procedure.

e) Notice of Public Meeting

Notice of the public meeting shall be published on the City of Las Cruces webpage and in a newspaper of general circulation within the City not less than 15 calendar days in advance of the date of the meeting. The notice shall identify the applicant, property owners of record, legal description of the property, and common address of the property.

f) Public Meeting Sign

The applicant shall place one sign at the public right-of-way adjacent to the property that is the subject of the public meeting at least 15 calendar days in advance of the date of the public meeting.

g) Mailing

Not less than 15 calendar days prior to the public meeting, the Community Development Director shall mail a written notice to the owners of record of the subject property and to the owners of record of all properties identified herein for notification within 500 feet. Written notice shall include the date, time, and location of the scheduled public meeting and information regarding access to a digital or written copy of the demolition application.

h) Public Meeting

The public meeting for the purpose of reviewing a Certificate of Economic Hardship application shall be conducted by the Historic Preservation Committee and a record of such proceedings shall be preserved in such manner as the Committee shall, by rule, prescribe from time to time.

i) Withdrawal of Application

An applicant may, at any time during the review process, withdraw a Certificate of Economic Hardship application by providing notice, in writing, to the Community Development Director.

j) Committee Action

i) At the public meeting, the Committee shall take statements presented by the owner(s) of record of the subject property as well as statements from any interested parties concerning the issuance of a Certificate of Economic Hardship. At a minimum, the applicant shall be required to submit evidence at the public meeting to support any of the Standards for a Certificate of Economic Hardship Review as identified in **Sec. 35-3.D.2** below. Evidence presented by the applicant, shall in the applicant's opinion, contribute to the economic hardship alleged to be incurred if the applicant is not granted a Certificate of Economic Hardship. Specific information and documentation that may be presented by the applicant and/or requested by the Committee may include:

a. The amount paid for the property, the date of the purchase, and the party from whom the property was purchased (including a description of the relationship, if any, between the owner and the entity from whom the property was purchased);

b. The assessed value of the land and improvements thereon according to the most recent assessments;

c. Real estate taxes for two years previous to the application for an economic hardship request;

d. Remaining balance on any mortgage, if any, and annual debt service, if any, for the two years previous to the application for an economic hardship request;

e. All appraisals obtained within the two years previous to the application for an economic hardship request by the owner of record or the applicant in connection with the purchase, financing, or ownership of the property;

f. Any listing of the property for sale or rent, price asked, and offers received, if any;

g. Any consideration by the owner of record or the applicant regarding profitable adaptive uses for the property;

h. If the property is income-producing, the annual gross income from the property for the two years previous to the application for an economic hardship request; itemized operating and maintenance expenses for the previous two years; and annual cash flow before and after debt service, if any, during the same period;

i. Form of ownership or operation of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture, or other; or

j. Any information including the income tax bracket of the owner of record or the applicant or any other principal investors in the property that is reasonably necessary for a determination as to whether or not

the property can be reasonably used or yield a reasonable return on an investment to present or future owners of the property.

ii) The Committee may invite and consider testimony to evaluate information provided either as part of a Certificate of Economic Hardship application or at the public meeting. A public meeting may be continued to a future date in the event that the Committee determines that additional information, unavailable at the public meeting, is warranted and necessary for the purpose of making a finding of fact.

iii) Furthermore, the Committee may continue a public meeting during a subsequent regularly scheduled meeting to provide time to fully evaluate new evidence presented at the public meeting.

iv) The Committee shall make written findings of fact within 45 calendar days following the close of the public meeting.

v) Upon the Committee's granting of relief due to economic hardship, the Community Development Director shall provide to the applicant a written Certificate of Economic Hardship that describes the rehabilitation relief granted and the basis of the economic relief.

k) Suspension of Work

During the period beginning with the filing of an application for a Certificate of Economic Hardship and ending with the final action of either the Historic Preservation Committee or the City Council, granting or denying said application, no exterior architectural feature of any improvement, property, or site that is the subject of an application may undergo any alteration or construction, if such work would be subject to a building permit and/or is subject to the issuance of a Certificate of Appropriateness. Nothing in this subsection shall operate to bar ordinary repair and maintenance or any work that is necessary to prevent or correct an imminently dangerous or hazardous condition.

l) Revocation of Certificate of Economic Hardship

If an applicant seeks a building permit for additional work on the same property for which a Certificate of Economic Hardship had been granted at an earlier date, the previously granted rehabilitation relief may be revoked and approvals for any additional work may include the requirement for completion of rehabilitation work previously deferred due to economic hardship.

2. Standards for a Certificate of Economic Hardship Review

The Historic Preservation Committee shall make findings related to a Certificate of Economic Hardship request based on the evidence presented to it in each specific case. The Committee shall not approve a Certificate of Economic Hardship unless it determines that the hardship was not created with the intent of circumventing this chapter and an applicant can prove one or more of the following conditions:

a) A substantial decrease in the fair market value of the property as a result of the denial of the proposed work;

b) A substantial decrease in financial return to the owners of record or other investors in the property as a result of the denial of the proposed work;

c) A substantial and significant additional cost to complete the proposed construction, alteration, relocation and/or demolition would be incurred to comply with the recommendations of the Committee for changes necessary for the issuance of a Certificate of Appropriateness;

d) The structural instability and a lack of sustainability for rehabilitation of any structure, object, or other improvement on the property;

e) A lack of economically feasible rehabilitation or adaptive use of the existing building, improvement, site, structure, or object; and/or

f) The retention of the resource will cause undue financial hardship to the owner of record or the applicant when a governmental action, an act of God, or other event beyond the owner’s control created the hardship, and all feasible alternatives to eliminate the economic hardship, which may include offering the resource for sale at its

fair market value or moving the resource to a vacant site within the historic district, have been attempted and exhausted by the owner of record and/or the applicant.

# Chapter 36. Zoning Regulations

## Sec. 36-1. General Provisions

### A. Title

This chapter shall be known and shall be cited as the "Zoning Regulations" of the City of Las Cruces, New Mexico.

### B. Purpose

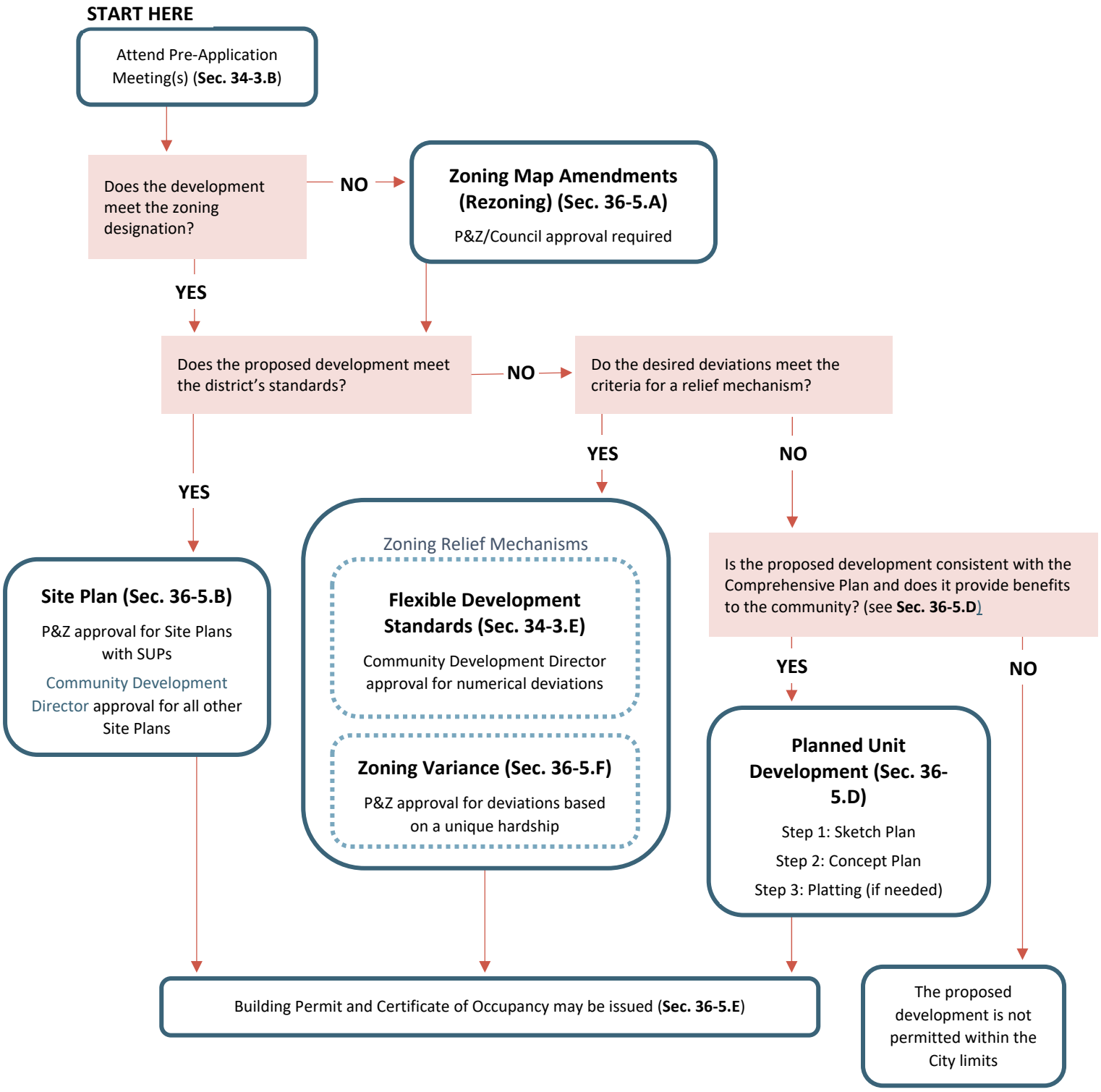
The purpose of these Zoning Regulations is to:

1. Ensure that all development is in accordance with this Code and the Comprehensive Plan;
2. Promote health, safety, and general welfare of the community;
3. Encourage innovations in land development and redevelopment that complement neighborhoods' existing character and support the consolidation of trips, and encourage bicycle, pedestrian, and transit modes of travel;
4. Regulate the erection, construction, alteration, repair, demolition, or use of buildings, structures, or land;
5. Control and abate the unlawful use of structures, buildings, or land;
6. Minimize adverse environmental impacts of development;
7. Reduce nuisances, such as noise, glare, and odor;
8. Encourage development of vacant properties within established areas; and
9. Conserve the value of buildings and land.

### C. Applicability

1. All land, buildings, structures, and appurtenances thereon located in the City that are hereafter occupied, used, erected, altered, or converted shall be used, placed, and erected in conformance with these Zoning Regulations.
2. The provisions of this Code shall be considered the minimum requirements or standards to meet the purpose and intent expressed in **B. Purpose** above.

## D. Zoning Process Overview



## Sec. 36-2. Zoning Districts

### A. Establishment of Zoning Districts, Map, and Boundaries

1. Designation of Official Districts

   The following shall be the official zoning districts:

   a) Zoning Districts

      i) NH-1, Neighborhood 1 District (Rural, Suburban, Urban)

      ii) NH-2, Neighborhood 2 District (Rural, Suburban, Urban)

      iii) NH-3, Neighborhood 3 District (Rural, Suburban, Urban)

      iv) CR, Commercial/Retail District (Rural, Suburban, Urban)

      v) LI, Light Industrial District (Rural, Suburban, Urban)

      vi) HI, Heavy Industrial District (Rural, Suburban, Urban)

      vii) OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban)

      viii) OS-2, Open Space-Drainage District (Rural, Suburban, Urban)

   b) Overlay Zoning Districts

      i) MXCO, Mixed Use Corridor Overlay District

      ii) TCO, Town Center Overlay District

      iii) NCO, Neighborhood Center Overlay District

      iv) AOD, Las Cruces International Airport Operations Overlay District

   c) Legacy Zoning Districts

      i) ADO, Alameda Depot Neighborhood Overlay District

      ii) LCIIP, Las Cruces Industrial Innovation and Industrial Overlay Zone District

      iii) SMO, South Mesquite Overlay District

      iv) UD, University District Overlay District

   d) Special Zoning Districts

      i) DDC, Downtown Development Code: See **E. DDC, Downtown Development Code** for applicable standards and procedures.

      ii) Historic Preservation District: See **Chapter 35. Historic Preservation** for applicable standards and procedures.

      iii) Planned Unit Developments (Error! **Reference source not found.**s): See **Sec. 36-5.D. Planned Unit Developments (Error! Reference source not found.**s) for applicable standards and procedures.

2. Zoning Map

   For the purpose of this Code, the City shall be divided into zoning districts, which shall be shown on the official Zoning Map.

3. Interpretation and Extension of District Boundaries

   Where uncertainty exists concerning the boundaries of any zoning district shown on the Zoning Map, the ordinance creating or changing a zoning district boundary shall be the governing document. The following rules shall apply if there is still uncertainty after reviewing the creating ordinance:

   a) Boundaries shall be construed as the centerline of existing, future, or vacated streets, highways, railroads, alleys, drainage or irrigation canals, other public rights-of-way, or un-zoned rights-of-way. The boundary extension of any zoning district shall be a projection of the property line and/or zoning district boundary line to the centerline of any applicable right-of-way centerline, regardless of the angle of intersection.

   b) Where property has been subdivided into blocks and lots, the boundaries shall be construed to be the lot line.

   c) Where property is not otherwise designated, divided, or subdivided, the boundary line shall be determined by the scaled distance shown on the Zoning Map.

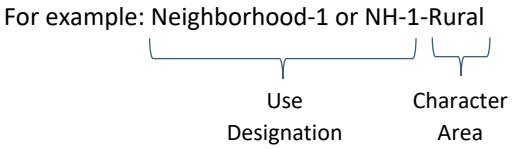
## B. Zoning Districts

1. Generally

   a) This section establishes zoning districts based on predominant use types. Each zoning district includes different permitted uses, as shown in **Figure 36-3-2. Permitted Use Chart**.

   b) These zoning districts include Character Areas. The purpose of the Character Areas is to implement the Comprehensive Plan's Future Development Map's Place Classifications: Rural, Suburban, and Urban. Each character area includes standards relating to site design, building form, and development character.

   c) Each zoning district includes both a use designation (e.g., "NH-1") and character area (e.g., "Rural"). This approach creates a menu of regulatory tools that both allows flexibility and promotes context-sensitive development.



2. Character Areas

a) Rural Character Area

The Rural Character Area describes land that is sparsely developed with significant areas of open space, including lands used for ranching, agriculture, or resource extraction. Rural places include lower-density residential development that offers residents relative seclusion from a more developed setting supported by public infrastructure. Substantial investment in public infrastructure to service more intense development patterns is not expected.

**Figure 36-2-1. Rural Character Area Example Illustrations**

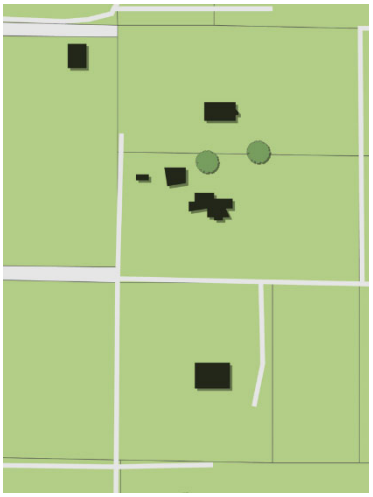
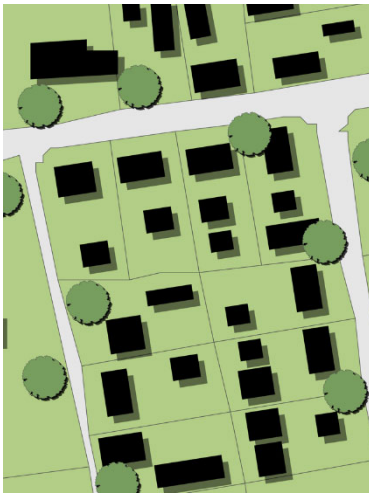
| NH-1-Rural | NH-2-Rural | NH-3-Rural |
|---|---|---|
|  |  |  |
| Low-intensity areas with large lots and primarily residential development | Low-intensity areas with large lots and residential development with compatible-scale neighborhood services | Low-intensity areas with large lots and a mix of residential and nonresidential development |

**Figure 36-2-2. Rural Character Area Standards**

| Streetscape | |
|---|---|
| Street Cross-Section | See **Sec. 38-2.C. Street Design Criteria** |
| Streetlights | See **Sec. 38-2.I. Streetlighting** |
| Sidewalks & Trails | See **Sec. 38-2.M. Sidewalks and Multi-Use Paths** |
| Street Trees | See **Sec. 38-7.D. Required Landscaping** |
| Connectivity | See **Sec. 38-2.E.5. Block Length** |
| **Site Design** | |
| Parking Treatment | See **Sec. 38-2.N.6. General Standards for Off-Street Vehicular Parking and Loading Areas**<br>Location-Specific Standard: Off-street parking is not required in the Urban Character Area; MXCO, Mixed Use Corridor Overlay District; TCO, Town Center Overlay District; NCO, Neighborhood Center Overlay District; or the DDC, Downtown Development Code area. |
| Transition Treatment | See **Sec. 38-8. Fencing, Screening, and Buffering** |

b) Suburban Character Area

The Suburban Character Area describes areas of contemporary development where land uses are dispersed among distinct residential neighborhoods, retail centers, office parks, and industrial uses. While development intensities may vary, suburban places favor segmented land uses with transitions between development types over the blending of differing uses in a single site. This character area may also support urban development patterns. These areas balance the needs of drivers, pedestrians, bicyclists, and other multi-modal users.

**Figure 36-2-3. Suburban Character Area Example Illustrations**

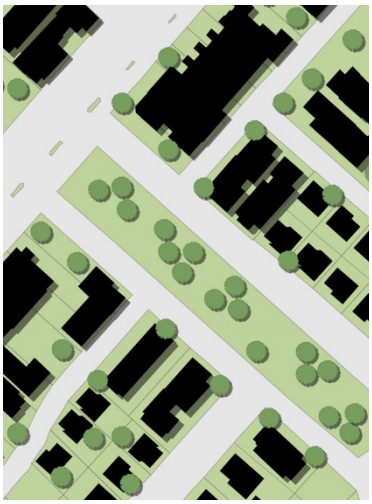
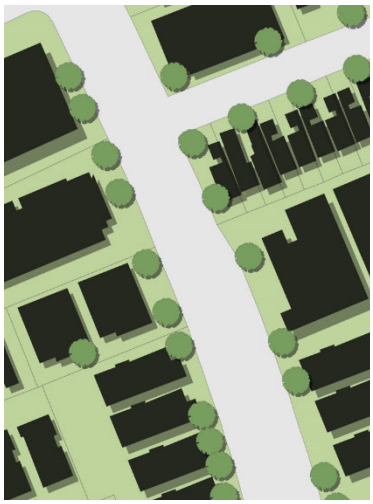
| NH-1-Suburban | NH-2-Suburban | NH-3-Suburban |
|---|---|---|
|  |  |  |
| Mid-intensity, suburban areas with primarily residential development | Mid-intensity, suburban areas with compatible-scale neighborhood services | Mid-intensity, suburban areas with a mix of residential and nonresidential development |

**Figure 36-2-4. Suburban Character Area Standards**

| Streetscape | |
|---|---|
| Street Cross-Section | See **Sec. 38-2.C. Street Design Criteria** |
| Streetlights | See **Sec. 38-2.I. Streetlighting** |
| Sidewalks & Trails | See **Sec. 38-2.M. Sidewalks and Multi-Use Paths** |
| Street Trees | See **Sec. 38-7.D. Required Landscaping** |
| Connectivity | See **Sec. 38-2.E.5. Block Length** |
| **Site Design** | |
| Parking Treatment | See **Sec. 38-2.N.6. General Standards for Off-Street Vehicular Parking and Loading Areas**<br>Character Area-Specific Standard: No more than 50 percent of off-street parking may be located between the front facade and the public right-of-way.<br>Location-Specific Standard: Off-street parking is not required in the Urban Character Area; MXCO, Mixed Use Corridor Overlay District; TCO, Town Center Overlay District; NCO, Neighborhood Center Overlay District; or the DDC, Downtown Development Code area. |
| Transition Treatment | See **Sec. 38-8. Fencing, Screening, and Buffering** |

c) Urban Character Area

The Urban Character Area describes areas including traditional downtowns and medium- to high-density center-city neighborhoods. Urban places blend a wide variety of land uses within individual districts, development sites, and buildings to promote compact development and walkable environments. These areas prioritize pedestrians, bicyclists, and other multi-modal users.

**Figure 36-2-5. Urban Character Area Example Illustrations**

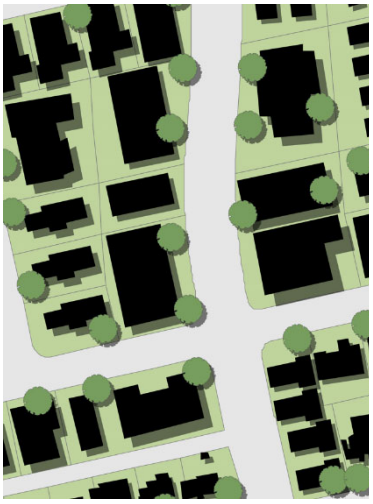
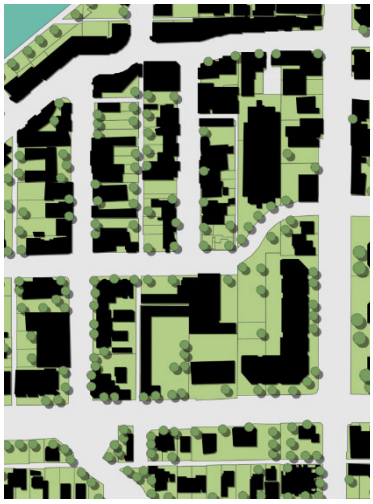
| NH-1-Urban | NH-2-Urban | NH-3-Urban |
|---|---|---|
|  |  |  |
| Highest-intensity neighborhoods with primarily residential development | Highest-intensity neighborhoods with compatible-scale neighborhood services | Highest-intensity neighborhoods with a mix of residential and nonresidential development |

**Figure 36-2-6. Urban Character Area Standards**

| Streetscape | |
|---|---|
| Street Cross-Section | See **Sec. 38-2.C. Street Design Criteria** |
| Streetlights | See **Sec. 38-2.I. Streetlighting** |
| Sidewalks & Trails | See **Sec. 38-2.M. Sidewalks and Multi-Use Paths** |
| Street Trees | See **Sec. 38-7.D. Required Landscaping** |
| Connectivity | See **Sec. 38-2.E.5. Block Length** |
| **Site Design** | |
| Parking Treatment | See **Sec. 38-2.N.6. General Standards for Off-Street Vehicular Parking and Loading Areas**<br>Character Area-Specific Standard: No off-street parking may be located between the front facade and the public right-of-way.<br>Location-Specific Standard: Off-street parking is not required in the Urban Character Area; MXCO, Mixed Use Corridor Overlay District; TCO, Town Center Overlay District; NCO, Neighborhood Center Overlay District; or the DDC, Downtown Development Code area. |
| Transition Treatment | See **Sec. 38-8. Fencing, Screening, and Buffering** |

3. NH-1, Neighborhood 1 District (Rural, Suburban, Urban)

The NH-1 District supports areas primarily used for housing, offering housing options that vary in intensity and density based on the character of the area. These options include low-density detached homes, mid-density options like cottage courts and townhomes, and high-density apartment and condominium developments. While nonresidential development is limited, the district offers a mix of neighborhood services and public and semi-public uses such as parks, schools, and places of worship to provide basic amenities and services to the community.

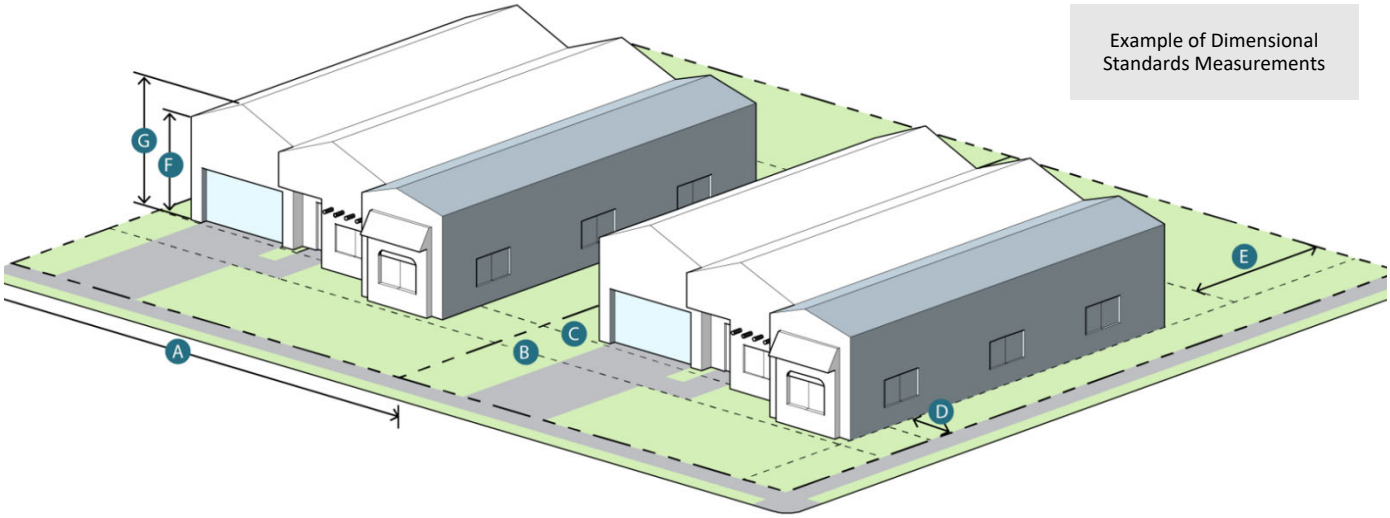



**Figure 36-2-7. NH-1 Density, Dimensions, and Primary Building Design Standards**

| | | NH-1-Rural | NH-1-Suburban | NH-1-Urban |
|---|---|---|---|---|
| | **DENSITY** | | | |
| | Residential Density (Max.)[1] | 1 **Error! Reference source not found.** | 16 **Error! Reference source not found.** | 40 **Error! Reference source not found.** |
| | **DIMENSIONS** | | | |
| A | Lot Width (Min.) | 70’ | 40’ | 20’ |
| B | Front Setback (Min.)<br>Arterials/Collectors<br>Locals | <br>25’<br>20’ | <br>20’<br>15’ | <br>15’<br>12’ |
| C | Front Build-To Line[2]<br>Arterials/Collectors<br>Locals | N/A | N/A | <br>15’<br>12’ |
| D | Side Setback (Min.) | 15’ | 5’ | 0’ |
| E | Rear Setback (Min.) | 25’ | 15’ | 5’ *minimum separation of 10' for buildings on adjacent properties |
| | Secondary Front Setback (Min.) | 20’ | 12’ | 5’ *out of clear site triangle |
| F | Ground Floor Height (Min.) | N/A | N/A | ; 12’ min for buildings with 3+ stories |
| G | Building Height (Max.) | 40’ | 50’ | 70’ |

| | NH-1-Rural | NH-1-Suburban | NH-1-Urban |
|---|---|---|---|
| Garage Front Setback (Min.) | 20’ | 20’ | 15’ |
| Accessory Structures | See **Sec. 36-4.B.2. Accessory Structures**. | | |
| **PRIMARY BUILDING DESIGN** | | | |
| Architectural Definition | N/A | N/A | Buildings with 3+ stories shall incorporate a tripartite design with architecturally defined base, middle, and top levels |
| Glazing (Min. – Mixed-Use, Commercial, Or Office Uses Only) | N/A | N/A | Ground floor front facade(s): 50% min.<br>All other facades/floors: 20% min. |

[1]Excludes accessory dwellings.

[2]At least 50% of the front facade shall be located in front of the Build-To Lineor a designated area that is to remain active or passive open space along the front.

4. NH-2, Neighborhood 2 District (Rural, Suburban, Urban)

   The NH-2 District includes a harmonious mix of well-integrated and compatible land uses that seamlessly blend together. Conveniently located neighborhood services support a vibrant living experience, with both vertical and horizontal mixed use development. This district is designed to enable people to live, work, and play in a cohesive environment.

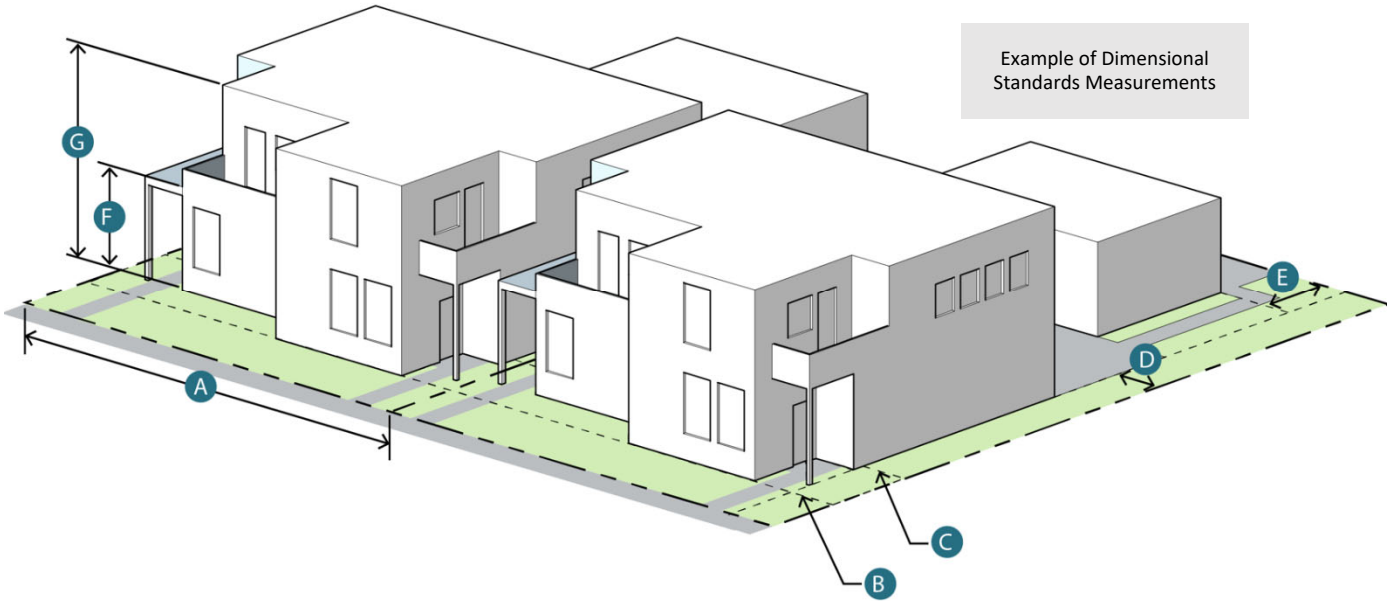



**Figure 36-2-8. NH-2 Density, Dimensions, and Primary Building Design Standards**

| | | NH-2-Rural | NH-2-Suburban | NH-2-Urban |
|---|---|---|---|---|
| | **DENSITY** | | | |
| | Residential Density (Max.)[1] | 2 **Error! Reference source not found.** | 24 **Error! Reference source not found.** | 50 **Error! Reference source not found.** |
| | **DIMENSIONS** | | | |
| A | Lot Width (Min.) | 60’ | 35’ | 20’ |
| B | Front Setback (Min.)<br>Arterials/Collectors<br>Locals | <br>25’<br>20’ | <br>20’<br>15’ | <br>15’<br>12’ |
| C | Front Build-To Line[2]<br>Arterials/Collectors<br>Locals | N/A | N/A | <br>15’<br>12’ |
| D | Side Setback (Min.) | 15’ | 5’ | 0’ |
| E | Rear Setback (Min.) | 25’ | 15’ | 5’ *minimum separation of 10' for buildings on adjacent properties |
| | Secondary Front Setback (Min.) | 20’ | 12’ | 5’ *out of clear site triangle |
| F | Ground Floor Height (Min.) | N/A | N/A | 12’ min for buildings with 3+ stories |
| G | Building Height (Max.) | 40’ | 50’ | 70’ |
| | Garage Front Setback (Min.) | 20’ | 20’ | 15’ |
| | Accessory Structures | See **Sec. 36-4.B.2. Accessory Structures**. | | |

| | NH-2-Rural | NH-2-Suburban | NH-2-Urban |
|---|---|---|---|
| | | | |
| **PRIMARY BUILDING DESIGN** | | | |
| Architectural Definition | N/A | N/A | Buildings with 3+ stories shall incorporate a tripartite design with architecturally defined base, middle, and top levels |
| Glazing (Min. – Mixed-Use, Commercial, Or Office Uses Only) | N/A | N/A | Ground floor front facade(s): 50% min.<br>All other facades/floors: 20% min. |

[1]Excludes accessory dwellings.

[2]At least 75% of the front facade shall be located in front of the Build-To Line . or a designated area that is to remain active or passive open space along the front.

5. NH-3, Neighborhood 3 District (Rural, Suburban, Urban)

   The NH-3 District is a transitional zone between residential and nonresidential areas that promotes interconnectivity and walkability within the district while ensuring compatibility with adjacent districts. Development intensity may vary throughout the site; the lowest intensities (e.g., larger lot size, increased setback, reduced height, residential uses) should be placed adjacent to a NH-1 or NH-2 District to ensure compatibility. Vertical mixed-use, retail, commercial, and office uses are appropriate in this district when appropriately integrated with nearby residential uses, ensuring that they complement and do not negatively impact the residential character of the adjacent districts. Intensive uses such as heavy commercial, industrial, and outdoor storage are not appropriate in this district.




**Figure 36-2-9. NH-3 Density, Dimensions, and Building Design Standards**

| | | NH-3-Rural | NH-3-Suburban | NH-3-Urban |
|---|---|---|---|---|
| **DENSITY** | | | | |
| | Residential Density (Max.)[1] | 4 **Error! Reference source not found.** | 30 **Error! Reference source not found.** | 60 **Error! Reference source not found.** |
| **DIMENSIONS** | | | | |
| A | Lot Width (Min.) | 50’ | 30’ | 20’ |
| B | Front Setback (Min.)<br>Arterials/Collectors<br>Locals | <br>25’<br>20’ | <br>20’<br>15’ | <br>15’<br>12’ |
| C | Front Build-To Line[2]<br>Arterials/Collectors,<br>Locals | N/A | N/A | <br>15’<br>12’ |

| | NH-3-Rural | NH-3-Suburban | NH-3-Urban |
|---|---|---|---|
| E Side Setback (Min.) | 15’ | 5’ | 0’ |
| F Rear Setback (Min.) | 20’ | 10’ | 5’ *minimum separation of 10' for buildings on adjacent properties |
| Secondary Front Setback (Min.) | 15’ | 12’ | 5’ *out of clear site triangle |
| G Ground Floor Height (Min.) | N/A | N/A | 12’ min for buildings with 3+ stories |
| H Building Height (Max.) | 40’ | 50’ | 70’ |
| Accessory Structures | See **Sec. 36-4.B.2. Accessory Structures**. | | |
| **PRIMARY BUILDING DESIGN** | | | |
| Architectural Definition | N/A | N/A | Buildings with 3+ stories shall incorporate a tripartite design with architecturally defined base, middle, and top levels |
| Glazing (Min. – Mixed-Use, Commercial, Or Office Uses Only) | N/A | N/A | Ground floor front facade(s): 50% min.<br>All other facades/floors: 20% min. |
| Garage | 20’ | 20’ | 15’ |

[1]Excludes accessory dwellings.

[2]At least 75% of the front facade shall be located between the Build-To Line . or a designated area that is to remain active or passive open space along the front.

6. CR, Commercial/Retail District (Rural, Suburban, Urban)

   The CR, Commercial/Retail District (Rural, Suburban, Urban) provides a wide range of commercial uses at various scales to serve residents and attract regional customers. This district specifically:

   a) Accommodates commercial, retail, office, and related nonresidential uses.

   b) Provides a system of convenient pedestrian and bicycle facilities to ensure connectivity between parking, adjacent streets, and all on-site facilities.

   c) Utilizes landscape areas of water-wise plantings along site frontages, within parking areas, and adjacent to public gathering areas to create aesthetically appealing commercial development.

   d) Mitigates intensive commercial development impacts through green infrastructure design, including xeriscaping and bioretention features.

   e) Promotes commercial development that manages vehicular access through consolidated curb cuts, cross-access easements, and driveway throat length.

   f) Provides uniform architectural styles and design features to foster holistic, attractive commercial development.

   g) Includes design standards for nonresidential buildings that fit the character of the surrounding community.

7. LI, Light Industrial District (Rural, Suburban, Urban)

   The LI, Light Industrial District (Rural, Suburban, Urban) provides for light industrial uses within a business/industrial park setting. Development intensity is low, with a focus on high-quality design and amenities. This district encourages uses that accommodate light industrial activities with secondary limited retail and service uses. This district specifically:

   a) Encourages industrial development in areas not directly adjacent to neighborhoods.

   b) Promotes industrial development to take direct access from Freeways, Principal Arterial, or Minor Arterial thoroughfares.

   c) Locates allowed land uses away from sensitive environmental areas.

8. HI, Heavy Industrial District (Rural, Suburban, Urban)

   The HI, Heavy Industrial District (Rural, Suburban, Urban) provides for the development of intensive industrial uses that generate significant development impacts. This district does not support secondary retail and commercial uses. This district specifically:

   a) Locates industrial development away from neighborhoods and commercial developments.

   b) Requires industrial development to take direct access from Freeways or Principal Arterial thoroughfares.

   c) Locates allowed land uses away from sensitive environmental areas.

9. OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban)

   a) The OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban) is intended to preserve, protect, and enhance areas set aside for parks, recreation, and open space. This district specifically:

      i) Allows both public and private lands to serve as areas providing passive recreational opportunities in a natural setting.

      ii) Protects, preserves, and/or restores natural resources and open spaces such as areas of undisturbed native vegetation, arroyos, and major land features when development within these areas would be detrimental to the health, safety, and general welfare of City residents.

      iii) Establishes buffer areas that are aimed at mitigating issues involving potentially incompatible land uses.

b) Application of the OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban) to private land requires the express written consent of the property owner(s).

10. OS-2, Open Space-Drainage District (Rural, Suburban, Urban)

The OS-2, Open Space-Drainage District (Rural, Suburban, Urban) is intended to provide for drainage areas or facilities, typically owned by or dedicated to the City.

**Figure 36-2-10. Dimensional Standards**

| | CR | LI | HI | OS-1 | OS-2 |
|---|---|---|---|---|---|
| **LOT STANDARDS** | | | | | |
| Lot Width (Min.) | 60’ | 60’ | 60’ | N/A | N/A |
| Lot Depth (Min.) | 70’ | 70’ | 70’ | N/A | N/A |
| **PRIMARY BUILDING SETBACKS** | | | | | |
| Front (Min.) | 15’ | 15’ | 15’ | N/A | N/A |
| Side (Min.) | 0’ | 0’ | 0’ | N/A | N/A |
| Rear (Min.) | 0’ | 0’ | 0’ | N/A | N/A |
| Rear – Alley (Min.) | 15’ | 0’ | 0’ | N/A | N/A |
| **BUILDING STANDARDS** | | | | | |
| Building Height (Max.) | 60’ | 60’ | 60’ | N/A | N/A |

Note: Zero lot line development shall meet all adopted building and fire codes.

## C. Overlay Zoning Districts

1. Overlay Zoning Districts

   As overlay districts, these standards apply in addition to a base zoning district's standards unless otherwise stated. The following is a list of the overlay zoning districts described in this subsection:

   a) MXCO, Mixed Use Corridor Overlay District

   b) TCO, Town Center Overlay District

   c) NCO, Neighborhood Center Overlay District

   d) AOD, Las Cruces International Airport Operations Overlay District

2. MXCO, Mixed Use Corridor Overlay District

   The MXCO is intended to implement the Comprehensive Plan's Mixed Use Corridor Place Type Overlay. Mixed Use Corridors support a mix of residential and nonresidential land uses along roadway or trail corridors. Mixed Use Corridors mimic the built environment of a central business district or other mixed-use activity center by combining residential and nonresidential land uses within buildings or on shared parcels but arranges such uses in a linear manner along established thoroughfares. Land uses are prescribed by the underlying base district; however, typical land uses include retail businesses, commercial services, professional offices, multi-family residential, and limited single-family residential.

   In addition to the uses permitted in the underlying base district by **Sec. 36-3.B. Use Classifications and Use-Based Standards**, the following uses are permitted by-right in the MXCO:

   a) Multi-Family Dwelling (if Multi-Family Dwelling is not permitted in the base district, then density shall be based on NH-3)

   The MXCO is an optional overlay, meaning an applicant within the district may choose to use all of the standards prescribed by this section, or they may choose to use the base district's standards. Within the MXCO, an applicant may choose to combine the MXCO with the NCO to achieve more flexible standards. A property owner may request to become part of the MXCO if the property is adjacent to the existing overlay.

3. TCO, Town Center Overlay District

   The TCO is intended to implement the Comprehensive Plan's Town Center Place Type Overlay. Town Centers include a mix of residential and nonresidential land uses that collectively create a vibrant and walkable activity center. Town Centers support institutional, cultural, employment, shopping, and entertainment uses while also providing high-density residential living options to create an energized environment to live, work, and play. Land uses are prescribed by the underlying base district; however, typical land uses include retail businesses, commercial services, professional offices, multi-family residential, and limited single-family residential.

   The TCO is an optional overlay, meaning an applicant within the district may choose to use all of the standards prescribed by this section, or they may choose to use the base district's standards. A property owner may request to become part of the TCO if the property is adjacent to the existing overlay.

4. NCO, Neighborhood Center Overlay District

   The NCO is intended to implement the Comprehensive Plan's Neighborhood Center Place Type Overlay. Neighborhood Centers include a mix of residential and nonresidential land uses that provide nodes of community activity for surrounding residential neighborhoods. These walkable activity centers provide local employment, shopping, and entertainment opportunities. Neighborhood Centers are located at key neighborhood intersections, and can be used to provide a transition between single-family residential neighborhoods and areas of higher development intensity.

   Only the following uses are permitted in the NCO, including any use-based standards established by **Sec. 36-3.B. Use Classifications and Use-Based Standards**:

a) Walk-Up Window

b) Child Care Center

c) Community Building or Banquet Center

d) Indoor Entertainment

e) Art Studio or Instruction

f) Grocery (Local)

g) Personal Services

h) Retail Store (Local)

i) Bar

j) Cafe

k) Restaurant

l) Tap Room or Tasting Room

The NCO is an optional overlay, meaning an applicant within the district may choose to use all of the standards prescribed by this section, or they may choose to use the base district's standards. A property owner may request to become part of the NCO if the property is adjacent to the existing overlay.

**Figure 36-2-11. MXCO, TCO, and NCO District Density, Dimensions, and Primary Building Design Standards**

| | MXCO, Mixed Use Corridor Overlay District | TCO, Town Center Overlay District | NCO, Neighborhood Center Overlay District |
|---|---|---|---|
| DENSITY | | | |
| Residential Density Range (Min./Max.)[1, 2] | 75% / 150% of the base district DUA | 75% / 150% of the base district DUA | N/A |
| DIMENSIONS | | | |
| Setbacks (Min.)<br>Front<br>Side<br>Rear | <br>12'<br>0'<br>As established by the base district | <br>12'<br>0'<br>As established by the base district | <br>12'<br>0'<br>As established by the base district |
| Front Build-To Line[3]<br>Arterials/Collectors/Boulevards<br>Locals/Avenues | <br>20'<br>15' | <br>20'<br>15' | <br>20'<br>15' |
| PRIMARY BUILDING DESIGN | | | |
| Building Height (Max.) | 5 stories | | Buildings shall not exceed the maximum building height of the base district by more than 15' |
| Facade Delineation | Changes in building elements (e.g., canopies, balconies, awnings, materials, offsets) shall delineate between adjacent buildings and storefronts and to distinguish ground-floor space from upper stories. Buildings with 3+ stories shall incorporate a tripartite design with architecturally defined base, middle, and top levels. | | |
| Glazing of Nonresidential Facades (Min.) | Ground floor front facade(s): 50% min.<br>All other facades/floors: 20% min. | | Ground floor front facade(s): 35% min.<br>All other facades/floors: 20% min. |
| | Numerous smaller openings rather than a few large ones shall be provided along these facades in the accomplishment of this provision. Reflective, translucent, or opaque glass is prohibited. | | |

| | MXCO, Mixed Use Corridor Overlay District | TCO, Town Center Overlay District | NCO, Neighborhood Center Overlay District |
|---|---|---|---|
| Architectural Elements | See **Sec. 36-4.C. Nonresidential, Mixed-Use, and Multi-Family Development**, subsection **5. Architectural Features**, | | |
| SITE DESIGN STANDARDS | | | |
| Street Design | New development shall use the Boulevard and Avenue cross-sections (see **Sec. 38-2.C. Street Design Criteria**). Redevelopment shall incorporate principles from these cross-sections as determined by the Development Review Committee. | | NCOs shall not be located on Local Streets, except at an intersection with a Boulevard, Avenue, or larger facility. |
| Parking | No off-street parking may be located between the front facade and the public right-of-way. See parking reduction provisions in **Sec. 38-2.N.4. Minimum Off-Street Vehicular Parking Requirements**. | | |
| Pedestrian Environment | Pedestrian areas adjacent to the buildings shall incorporate features to promote a walkable environment, such as seats, benches, shade trees, awnings, and arcades. Where awnings are used, they should be metal or an equivalent durable material. | | |
| Signs | See **Figure 38-10-5. Permitted Sign Locations and Standards** in **Sec. 38-10. Signs**. | | |

[1] Excludes any accessory dwellings.

[2] An applicant must pick one overlay to use. Overlays cannot overlap to compound the density bonus.

[3] At least 75% of the front facade shall be located in front of the Build-To Line.

5. AOD, Las Cruces International Airport Operations Overlay District

   a) Purpose

      The purpose of the Las Cruces International Airport Operations Overlay District is to protect the operations of the Las Cruces International Airport ("Airport") from encroachment of land uses that could inhibit or restrict present airport operations or negatively affect the future growth and operation of the airport. Since the boundaries associated with this district are dependent upon the physical boundaries of specific airport features, the boundaries shall change as necessary with respect to any changes in these features.

   b) AOD Boundary

      The boundaries of this district are shown in **Figure 36-2-12. Las Cruces International Airport Operations Overlay District (AOD)**.

   c) Restrictions

      No residential uses shall be allowed within AOD unless the following requirements are met. These requirements are necessary to mitigate the encroachment of land uses that could inhibit or restrict present airport operations or negatively affect the future growth of the airport.

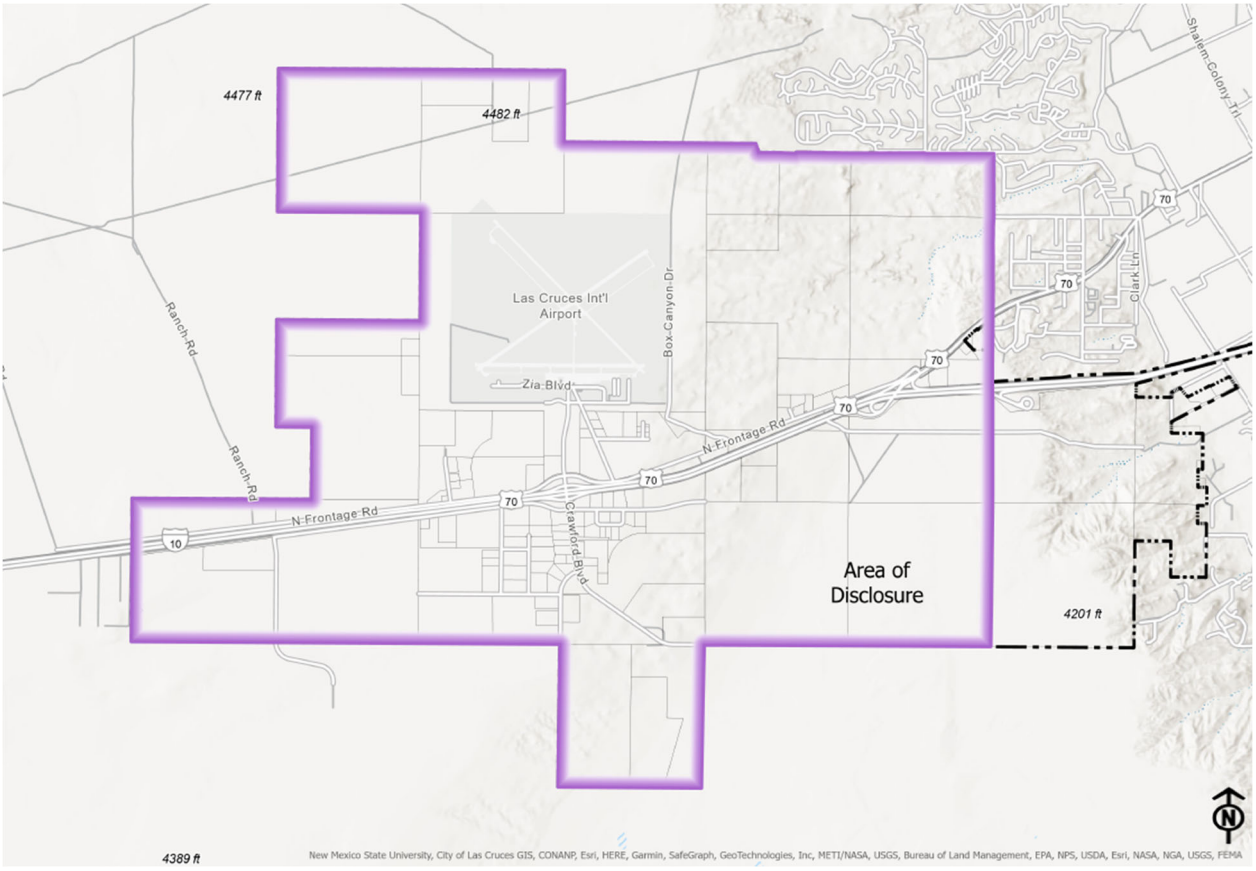
      i) No use may be made of land, water, or electrical power within any zone (includes approach, horizontal, conical, and transitional zones) in such a manner as to create electrical interference with navigational signals or radio communication between airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport.

      ii) No structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone to a height in excess of applicable height limits established by that zone (including approach, horizontal, conical, and transitional zones).

      iii) Effective on the date of this overlay approval, all land subdivisions within the area of disclosure shall require disclosure of the land's proximity to the airport by any person or entity subdividing land within this area. Disclosure of this information shall be required on the final subdivision plat to be recorded with the County Clerk’s Office.

   d) Development Process. Development within the area of disclosure shall be subject to review and approval by the Airport Manager and shall adhere to all applicable restrictions stated and outlined in F.A.R. Part 77 (Height Restrictions) and F.A.R. Part 150 (Noise and Land Use Compatibility) as amended. The Airport Manager shall distribute the approved plans to the appropriate entity for permitting.

**Figure 36-2-12. Las Cruces International Airport Operations Overlay District (AOD)**



## D. Legacy Zoning Districts

1. Legacy zoning districts are previously existing zoning districts that have been preserved within the Development Code but will not be applied to new land. The following is a list of the legacy zoning districts described in this subsection:

   a) ADO, Alameda Depot Neighborhood Overlay District

   b) LCIIP, Las Cruces Industrial Innovation and Industrial Overlay Zone District

   c) SMO, South Mesquite Overlay District

   d) UD, University District Overlay District

2. ADO, Alameda Depot Neighborhood Overlay District

   a) Purpose. The Alameda Depot neighborhood, with its rich history, diverse architecture and peaceful environment, is an important part of Las Cruces life. The purpose of the Alameda Depot Neighborhood Overlay (ADO) is to implement the policies that were established in the Alameda Depot Neighborhood Plan. As it is impacted by changes in downtown and surrounding neighborhoods, residents and property owners want to protect the characteristics that make the Alameda Depot neighborhood special. Specific provisions in this overlay provide greater flexibility for historic properties and address such things as such as setbacks, land uses, parking and changes to structures that predate the creation of development standards. The Alameda Depot Overlay contains a state historic district and a national historic district, but the neighborhood has not been designated a local historic district, and will be exempt from any future local historic district ordinances should they be adopted by the city.

   b) Applicability.

      i) Introduction. This overlay applies to all properties within the Alameda Depot neighborhood boundaries. These properties have been categorized into six sub-areas, and have been given new zoning designations based on the distinct characteristics of each (see **c)** below). The overlay shall be used to regulate development standards, land uses, design of new streets, new buildings, and new public spaces.

      ii) Terms. The provisions of this overlay are activated by "shall" when required; "should" when recommended; and "may" when optional. Technical terms used throughout this section may be defined in **d)** below. Those terms not defined in **d)** below shall be accorded their commonly accepted meanings or as defined in **Sec. 34-5. Definitions**. In the event of conflicts between these definitions and the provisions herein stated, the Community Development Director shall have the authority pursuant to **Sec. 34-1.I. Interpretations** and **Sec. 34-1.J. Conflicting Provisions** to determine which will be imposed.

      iii) Diagrams and illustrations. Diagrams and illustrations are an integral part of this overlay and are used to help explain standards and guidelines. The diagrams and illustrations are for illustrative purposes only. When in conflict, written text shall take precedence over diagrams and illustrations.

   c) Delineation of overlay. The Alameda Depot Overlay District shall include all properties noted on the associated map (**Figure 36-2-13**). Within the overlay, six distinct zones shall be established: ADO-1, the Alameda Corridor; ADO-2, the Griggs/Organ Corridor; ADO-3, the North and South Residential Cores; ADO-4, the Picacho Corridor; ADO-5, Amador Corridor; and ADO-6, the Railroad Corridor. Description of overlay zones:

      i) ADO-1, the Alameda Corridor: Uses in ADO-1 include single-family residential, multifamily residential, low-intensity office and commercial uses, and public/institutional uses that generate relatively little traffic or parking demand. The residential and historic character of the neighborhood shall be retained as closely as possible.

      ii) ADO-2, the Griggs/Organ Corridor: Uses in ADO-2 include single-family residential, multifamily residential, low-intensity office and commercial uses, and public/institutional uses that generate relatively little traffic or parking demand. The residential and historic character of the neighborhood shall be retained as closely as possible.

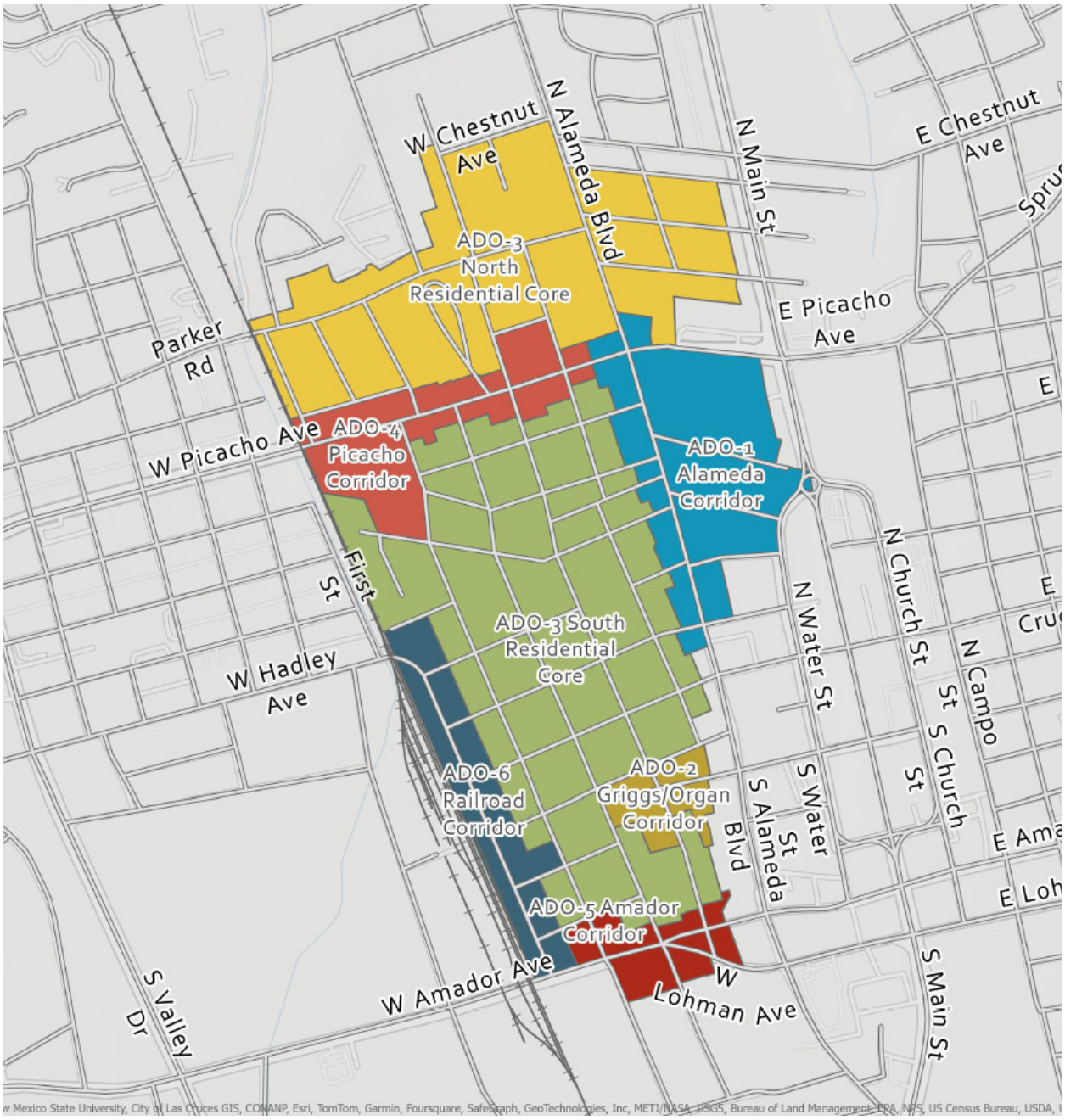
iii) ADO-3 the North and South Residential Cores: ADO-3, the Residential Core, is intended to accommodate primarily detached single-family dwelling units, with or without secondary residences, to maintain and protect a low-density residential character of development, and to maintain the historic appearance of this central area of the neighborhood as closely as possible.

iv) ADO-4, the Picacho Corridor: Uses in ADO-4 include single-family residential, multifamily residential, and low- and medium-intensity office and commercial uses. The residential and historic character of the neighborhood shall be retained as closely as possible. All office and commercial uses are intended to serve as transition zones between higher-intensity uses on Picacho Avenue and the predominantly residential uses of the neighborhood.

v) ADO-5, Amador Corridor: Uses in ADO-5 include single-family residential, multifamily residential, and low- and medium-intensity office and commercial uses. The residential and historic character of the neighborhood shall be retained as closely as possible. All office and commercial uses are intended to serve as transition zones between higher intensity uses on Amador Avenue and adjacent to the DDC, Downtown Development Code and the predominantly residential uses of the neighborhood.

vi) ADO-6, the Railroad Corridor: ADO-6, the Mesilla Street/Railroad Track Corridor, is intended to exist as a mixed-use environment allowing low-intensity manufacturing, low- and medium-intensity office and commercial, and limited residential uses. Residential uses must be part of a mixed-use development. Residential uses existing at the time of adoption of this overlay that are not a part of a mixed-use development are considered legally nonconforming, and shall adhere to the nonconforming use provisions stated below in **h)** below, with the exception of **h)i)a** below. These uses are not subject to the one-year vacancy limit.

**Figure 36-2-13. Alameda Depot Overlay (ADO) Boundaries**



d) Definitions. Definitions are in addition to those noted in **Sec. 34-5. Definitions**:

*Accessory dwelling unit:* A self-contained living quarter containing independent kitchen (cooking/culinary) facilities attached to and under the same roof as the main dwelling, created by: The conversion of an existing single-family dwelling; or the addition to an existing single-family dwelling; or the incorporation of applicable areas into a new single-family dwelling design which is subsequently constructed. (also see #19 Accessory Dwelling in **Sec. 36-3.B**).

*Accessory use or structure:* A subordinate use or structure, the use of which is incidental to and customarily found in connection with the principal dwelling on the same property. Examples: Gazebo, greenhouse, tool shed, detached garage, guest dwelling, swimming pool, tennis court, barn, and flagpole (also see **Sec. 36-4.B.2 Accessory Structures**).

*Brew-pub:* A brew-pub is a microbrewery that serves food or is combined with a pub. A microbrewery, or craft brewery, is a brewery that produces a limited amount of beer. The maximum amount of beer a brewery can produce and still be classed as a microbrewery in New Mexico is less than or equal to 200,000 barrels a year, according to the New Mexico Alcohol and Gaming Division.

*Downtown Development Code (DDC)):* All properties with zoning designation of DDC, Downtown Development Code.

*Compatible:* Capable of existing together in harmony. Parts of a whole that work well together when pieced together.

*Consistent:* That which is similar to, or nearly the same.

*Contributing property:* A property, structure, or object that adds to the historical integrity or architectural qualities that make the historic area significant. In general, a contributing property is key to a historic district's historic associations, historic architectural qualities, or archaeological qualities. (A list of contributing properties in the Alameda Depot Neighborhood Overlay is available from the community development department.)

*Demolition:* An act that destroys or removes in whole or in part of the exterior of a building or structure on a property.

*Dwelling, above ground floor:* Dwelling unit(s) located above ground floor office or commercial uses.

*Facade:* Any exterior wall of a structure.

*Guest dwelling:* A detached or attached dwelling to be used for temporary occupancy only and is not to be rented or leased. A guest dwelling shall be no more than 50 percent of the main dwelling's heated/cooled square footage and shall not contain a kitchen (also see #19 Accessory Dwelling in **Sec. 36-3.B**).

*Historic:* Structures/buildings deemed historic are those listed as contributing on the federal and/or state historic registers.

*Historic district:* Area in which historic buildings and their settings are protected by public review. Historic districts comprise the city's significant historic and architectural resources. Inclusion in a historic district signifies that a property contributes to an ensemble that is worth protecting by virtue of its historic importance or architectural quality.

*LCMC:* Most current edition of the Las Cruces Municipal Code.

*Live/work unit:* A building that may be used flexibly for living and working in the same building. A variety of uses in the buildings is encouraged. Dwelling units may be located above the ground floor, attached to the rear of a shop front, or detached and located in the rear or side yard. Work is of a commercial nature subject to business registration requirements and not a home occupation.

*Manufactured home:* A manufactured or modular home that is a single-family dwelling with a heated area of at least 36 feet by 24 feet and at least 864 square feet and constructed in a factory to the standards of the United States Department of Housing and Urban Development, the National Manufactured Housing

Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 or the Uniform Building Code, as amended to the date of the unit's construction, and installed consistent with the Manufactured Housing Act and with the regulations made pursuant to that Act. (#3 Manufactured Home in **Sec. 36-3.B**).

*Mixed-use:* For the purposes of this overlay, the term refers to the practice of allowing more than one type of land use category (i.e., residential, office, or commercial, etc.) in a single building or set of buildings located on a single parcel. Condominium maps created and filed showing distinct sub-lots on an otherwise single parcel shall be considered as a single parcel for purposes herein stated.

*Mobile home:* A moveable or portable housing structure larger than 40 feet in body length, eight feet in width or 11 feet in overall height, designed for and occupied by no more than one family for living and sleeping purposes, but does not include structures built to the standards of any municipal building code and other technical codes. (#6 Mobile Home in **Sec. 36-3.B**).

*National Historic District:* An area that the U.S. Government designates as historically important through the U.S. Department of Interior, under the auspices of the National Park Service. Federally designated historic districts are listed on the National Register of Historic Places. The Alameda Depot Neighborhood Overlay contains a National Historic District.

*Outdoor plaza or space:* A generally open area that may be used for active or passive purposes by one or more businesses and the public visiting the location. An example may include an outdoor seating area for a cafe or restaurant, outdoor sales and service, a landscaped plaza serving as open space for patrons and visitors alike, etc.

*Overlay and special zoning district:* Synonymous terms used to define boundaries around an area that has a set of unique or unusual characteristics. Overlays and special zoning districts have a special purpose as defined in an accompanying plan, and may alter general residential, office, commercial or industrial zoning districts or replace them entirely.

*Performing arts center:* A multi-use performance facility that is intended for use by various types of the performing arts, including dance, music, and theatre.

*Secondary residence:* A dwelling unit that is subordinate in size and location to the main dwelling on a single property, and may be rented or leased as an independent dwelling unit. A secondary residence is different from a guest dwelling or accessory structure in that it is distinct dwelling unit containing a kitchen. Examples include a traditional guest house, apartment, cottage, or converted garage.

*State historic district:* An area that is designated by the state as historically important and which follows criteria similar to the federal standards. State listings can have similar benefits to federal designation, such as qualification for grants and tax incentives. Designation of a district is through a review process at the state historic preservation office. New Mexico's Register of Historic Places lists districts and individual properties. The Alameda Depot Neighborhood Overlay contains a state historic district.

*Step-back:* In buildings with multiple stories, a reduction in the footprint of each level located successively farther from the ground. Step-backs prevent a "canyon effect," which deprives neighboring properties of sun light, and ensure that streets and yards are provided adequate light and air. In addition, they create articulation and a sense of vertical rhythm in the architecture. The space created by a step-back may be used for terraces, gardens, outdoor seating, etc.

*Structure:* That which is built or constructed, an edifice or building of any kind, or any place of work artificially built up or composed of parts joined together in some definite manner.

*Traditional guest house:* A type of secondary residence with kitchen facilities found in the Alameda Depot neighborhood as a result of adaptive reuse of existing structures on the same parcel as the primary dwelling. Historically, these units were converted from nonresidential uses, such as a coach house.

e) Permitted uses.

i) Land uses in ADO-1, the Alameda Corridor; ADO-2, the Griggs/Organ Corridor; ADO-4, the Picacho Corridor; ADO-5, Amador Corridor; and ADO-6, the Railroad Corridor shall follow **Figure 36-2-14. ADO Permitted Use Chart** below.

ii) Uses in ADO-3, the North and South Residential Cores, shall be in accordance with the underlying zoning as designated in **Figure 36-3-2. Permitted Use Chart**.

iii) Land use definitions. Unless otherwise stated, land uses are as follows:

a. *Residential:* Low- and medium-density residential uses in the Alameda Depot Neighborhood Overlay are intended to accommodate single-family site built/manufactured dwelling units, including patio homes and townhouses, and multifamily dwellings up to 20 per acre, with no more than four attached units each.

b. *Low-intensity office:* These office uses are small-scale and provide low-intensity service activities. No goods or merchandise are prepared or sold on the premises with the exception of those activities that serve the primary use. Access to streets that are a major local or higher designation is recommended.

c. *Low-intensity commercial:* Low-intensity commercial uses are those that generate small-scale retail and service activities within a neighborhood area.

d. *Medium-intensity commercial*: Medium-intensity commercial areas facilitate and encourage development of those uses that provide retail and service activities as a convenience to the general public.

e. *Public/institutional:* These are uses dedicated to public or nonprofit service, such as schools, religious institutions, government and quasi-governmental agencies, libraries, etc.

f. *Low-intensity industrial:* Low-intensity industrial uses are those that accommodate a wide variety of light manufacturing, commercial, processing, storage, packaging, compounding, wholesaling and distribution operations. Such uses shall be constructed and operated to ensure that there is: 1) no activity producing noise, glare, or heat observable or measurable outside the building; 2) no emission of objectionable dust, fumes, odors, vapors, gases, smoke, or other forms of air pollution; 3) no vibration which is discernible beyond the property lines to the human sense of feeling for three minutes or more duration in any one hour of a day.

**Figure 36-2-14. ADO Permitted Use Chart**

| a) RESIDENTIAL USES | ADO-1<br>ADO-2 | ADO-4<br>ADO-5 | ADO-6 | CONDITIONS |
|---|---|---|---|---|
| Assisted Living or Retirement Facility | C | C | NP | Use shall be located on a collector or higher designated roadway. |
| Bed and Breakfast | C | C | NP | See #64 Bed and Breakfast in **Sec. 36-3.B** |
| Boarding House | A | A | NP | |
| Dwelling Unit, including:<br>Accessory Dwelling Unit<br>Apartments<br>Detached Site Built Single Family DU<br>(incl. manufactured homes)<br>Duplex, Triplex, etc.<br>Dwelling, Live-Work<br>Guest Dwelling<br>Patio Homes<br>Townhouse (Attached Single Family DU)<br>Secondary Residences | A | A | C | In ADO-6, residential uses are intended to be multi-family and must be part of a live/work or multi-use development project. Project must be no more than 50% residential. |
| Fraternity/Sorority House | A | A | NP | |
| Halfway House | S | S | NP | |
| Home for Disabled | A | A | NP | |

| a) RESIDENTIAL USES | ADO-1 ADO-2 | ADO-4 ADO-5 | ADO-6 | CONDITIONS |
|---|---|---|---|---|
| Nursing Home | C | C | NP | Use shall be located on a collector or higher designated roadway. |
| Temporary/Homeless Shelter | A | A | NP | |
| A = Allowed C = Conditional S = Special Use Permit NP = Not Permitted | | | | |

| b) RESIDENTIAL RELATED USES | ADO-1 ADO-2 | ADO-4 ADO-5 | ADO-6 | CONDITIONS |
|---|---|---|---|---|
| Accessory Uses & Structures | C | C | C | See #Sec. 36-4.B.2 Accessory Structures in **Sec. 36-3.B** |
| Greenhouse (Noncommercial), Garden Shed, Tool Shed | C | C | C | See #Sec. 36-4.B.2 Accessory Structures in **Sec. 36-3.B** |
| Recreational Court, Tennis, etc., Private | C | C | C | See #Sec. 36-4.B.2 Accessory Structures in **Sec. 36-3.B** |
| A = Allowed C = Conditional S = Special Use Permit NP = Not Permitted | | | | |

| c) RECREATIONAL USES | ADO-1 ADO-2 | ADO-4 ADO-5 | ADO-6 | CONDITIONS |
|---|---|---|---|---|
| Health/Exercise Club/Gymnasium/Sports Institution | NP | A | A | |
| Park | A | A | A | |
| Recreational Court, Tennis, etc., Public | A | A | A | |
| Skating Rink | NP | A | NP | |
| Swimming Pool, Commercial or Public | C | C | C | See #71 Outdoor Entertainment in **Sec. 36-3.B** |
| A = Allowed C = Conditional S = Special Use Permit NP = Not Permitted | | | | |

| d) INSTITUTIONAL RELATED USES | ADO-1 ADO-2 | ADO-4 ADO-5 | ADO-6 | CONDITIONS |
|---|---|---|---|---|
| Child Care: Family Child Care Home (5—6 children) | C | C | C | See #37 Child Care Home (≤6) in **Sec. 36-3.B** |
| Child Care: Group Child Care Home (7—12 children) | C | C | C | See #38 Group Child Care Home (7-12) in **Sec. 36-3.B** |
| Child Care: Child Care Center or Preschool (over 12 children) | NP | S | S | See #36 Child Care Center in **Sec. 36-3.B** |
| Community Buildings | C | C | NP | |
| Convention Center/Exhibition Hall | A | A | NP | |
| Institutional Office (incl. quasi-governmental) | A | A | A | |
| Library/Museum | C | C | C | |
| Religious Institution w/Columbarium | C | C | C | See #43 Cemetery or Columbarium in **Sec. 36-3.B** |
| School (K-12) Public, Private, Parochial | C | C | NP | See #39 School (K-8)40School (9-12) in **Sec. 36-3.B** |
| School, College or University | C | C | NP | See #41 School (College or University) in **Sec. 36-3.B** |
| School, Commercial, Trade or Technical | C | C | C | See #42 School (Commercial, Trade, or Technical) in **Sec. 36-3.B** |

| d) INSTITUTIONAL RELATED USES | ADO-1 ADO-2 | ADO-4 ADO-5 | ADO-6 | CONDITIONS |
|---|---|---|---|---|
| Theatre, Performing Arts | NP | C | C | Use shall be located on a collector or higher designated roadway. |
| A = Allowed C = Conditional S = Special Use Permit NP = Not Permitted | | | | |

| e) OFFICE & COMMERCIAL LAND USES | ADO-1 ADO-2 | ADO-4 ADO-5 | ADO-6 | CONDITIONS |
|---|---|---|---|---|
| Art Studio | C | C | C | Retail activity is limited to 25% of the gross floor area in ADO-1 and ADO-2, and 50% in ADO-4, ADO-5 and ADO-6. |
| Bank, Bonding & Financial Institution (No Drive-Thru) | A | A | A | |
| Eating and Drinking Establishments (Cafe, Cafeteria, Coffee Shop, Restaurant; Bar, Pub, Tavern (No Dancing); Brewpub; etc.) | C | A | A | No drive-thru permitted. |
| Equipment (Large) Repair & Service (Non-Vehicular) | NP | C | C | No outside storage of parts, materials. or equipment is permitted. |
| Equipment Rental | NP | C | C | No outside storage of parts, materials, or equipment is permitted. |
| Gas Station | NP | A | A | |
| General Office and Service (Accounting, Auditing & Bookkeeping; Architectural, Contracting, Engineering, Planning & Surveying; Photo Studio; Barber/Beauty/Hair Salon & Related Personal Care; Cleaning & Maid Services; Consulting Services; Counseling Services; Credit Reporting & Collection; Desktop Publishing & Graphic Design; Funeral Home; Insurance; Laboratory; Legal Services; Lessons (Art, Dance, Music, etc.); Mailing & Stenographic Services; Medical/Dental Office; Motion Picture Production; Real Estate; Research Organization, Noncommercial; Tax Preparation; and other similar Business Offices.) | A | A | A | |
| General Retail & Commercial (Bicycle Sales, Service and Repair; Building Materials; Delicatessen, Carpet/Window Treatments; Clothing Store; Convenience Store; Department Store; Produce/Meat Market; Grocery Store; Hardware Store w/out outdoor sales or storage; Furniture Store; Garden Supply; Home Furnishings; Laundry/Dry Cleaning Services; Liquor Store; Pawn Shop; Pharmacy; Photography Studio; Plant Nursery; Specialty Foods such as bakeries, confectionaries, etc.; Specialty Store such as books, music, toys, etc.; Variety Store; Video/DVD Rental/Sales; and other typical small-scale Commercial establishments.) | A | A | A | |
| Health Care Clinic (Non-Hospital) | NP | A | A | |
| Hotel/Motel/Youth Hostel | NP | A | A | |
| Petroleum/Propane Sales | NP | C | C | Use shall be screened with an opaque buffer or screen meeting current Fire Code standards. Also see #124 Hazardous Chemical Manufacturing or Storage in **Sec. 36-3.B**. |
| Private Club or Lodge | NP | A | A | |
| Radio/TV Studio/Station | NP | A | A | |
| Seasonal Sales, Non-temporary (Fireworks, Agricultural Produce, Snowcone Stand, Firewood Sales, etc.) | C | C | C | All structure locations shall meet all applicable setback requirements. If sited on property where other uses exist, there shall be no obstruction of the driving aisles or parking stalls unless it can be proven that there is an excess of parking area. If the use does not follow temporary use provisions, the property shall be subject to all applicable development requirements. |

| e) OFFICE & COMMERCIAL LAND USES | ADO-1 ADO-2 | ADO-4 ADO-5 | ADO-6 | CONDITIONS |
|---|---|---|---|---|
| | | | | See also #35 Seasonal/Temporary Sales or Use in **Sec. 36-3.B**. |
| Small Item Repair Shop | C | C | C | No outdoor storage of parts, materials, or equipment is permitted. |
| Telemarketing/Mail Order/Call Center | NP | C | C | No warehousing or distribution is permitted |
| Temporary (Non-Seasonal) | C | C | C | See #35 Seasonal/Temporary Sales or Use in **Sec. 36-3.B**. |
| Theater, Movie | NP | A | A | |
| Theater, Performing Arts | NP | C | C | Uses shall be located on a collector or higher designated roadway. |
| Upholstery Shop | C | C | C | No outdoor storage of parts, materials, or equipment is permitted. |
| Vehicle Sales/Service/Rental/Repair (incl. body shop, parts stores, repair & service, wash/wax/detailing (self- or full-service), sales, rental, campers, tire sales/repair, etc.) | NP | C | C | No salvage yard or related activities shall be permitted. No outside storage of parts, materials, or equipment permitted. |
| A = Allowed C = Conditional S = Special Use Permit NP = Not Permitted | | | | |

| f) INDUSTRIAL LAND USES | ADO-1 ADO-2 | ADO-4 ADO-5 | ADO-6 | CONDITIONS |
|---|---|---|---|---|
| Above Ground Storage Tanks for Flammable & Combustible Liquids and LP Gas | NP | NP | C | See #124 Hazardous Chemical Manufacturing or Storage in **Sec. 36-3.B**. |
| Cab Stand | NP | NP | A | |
| Cabinetry and Woodworking | NP | NP | A | |
| Communication/Vertical Structures | C | C | C | See **Sec. 38-11. Wireless Communication Facilities** |
| Contractor's yard (general, plumbing, mechanical, and others of a similar nature) | NP | NP | C | All storage outside of buildings shall be enclosed with an opaque screen |
| Face Mount (attached to primary use) | C | C | C | See **Sec. 38-11. Wireless Communication Facilities** |
| Jewelry, Silverware & Plated Ware | NP | NP | A | |
| Laboratories (Medical/Dental/R & D) | NP | NP | A | |
| Manufacturing, Low-Intensity | NP | NP | A | See **Sec. 36-2.D.2.d)** above |
| Ministorage Units | NP | NP | A | |
| Musical Instrument Fabrication/Manufacture | NP | NP | A | |
| Parking Facilities, Commercial (Garages & Public Parking Lots | NP | NP | A | |
| Printing and Publishing | NP | NP | A | |
| Railroad Terminal | NP | NP | A | |
| Signs & Advertising Fabrication/Manufacture | NP | NP | A | |
| Storage/Display of Merchandise for Sale (except Manufactured buildings, mobile homes & operable cars, trucks, motorcycles & RVs) | NP | NP | C | Outdoor display is permitted and is required to be enclosed behind a solid wall or solid fence no less than 6 feet in height. |
| Storage outside of buildings of materials, equipment, and supplies not for sale | NP | NP | C | All outdoor storage shall be enclosed with a Type A screen. |
| Storage, warehousing accessory to Office, Retail, Service, or Industry | NP | NP | C | All outdoor storage shall be enclosed with a Type A screen. |
| Utility Installation, Public/Private | C | C | C | See #53 Public Utilities (Major) and #54 Public Utilities (Minor) in **Sec. 36-3.B** |
| Water Purification, Commercial | NP | NP | A | |

| f) INDUSTRIAL LAND USES | ADO-1 ADO-2 | ADO-4 ADO-5 | ADO-6 | CONDITIONS |
|---|---|---|---|---|
| Wholesale Trade, any product | NP | NP | A | |
| A = Allowed C = Conditional S = Special Use Permit NP = Not Permitted | | | | |

f) Development standards. There shall be no development or alteration of the lands, uses, or structures within the overlay zone district except as provided for by this section from the date of its enactment and other sections of the City Zoning Code and other City codes and ordinances where applicable. Development requirements and permitted uses shall be established for the entire overlay zoning district, as follows (unless otherwise indicated):

| 1. PLACEMENT OF PRIMARY STRUCTURES—RESIDENTIAL | |
|---|---|
| Lot Area/Size | Minimum: 3500 square feet<br>Maximum: Not to exceed size of largest existing lot on both sides of the same block.<br>Applications for replats that would result in a larger lot size will be considered on a case by case basis. |
| Minimum Lot Width/Frontage | 40 feet |
| Minimum Lot Depth | 70 feet |
| Front Setback | Within the range of primary building setbacks on both sides of the same block. |
| Secondary Front Setback | 5 feet |
| Side Setback | Minimum: 5 feet<br>• Setback may be zero only if there is an existing structure on the same property with a zero setback.<br>• Stormwater required to be contained on subject parcel.<br>• Separation between all structures, on same and adjacent property, must comply with the International Building Code and other companion codes. |
| Rear Setback | Minimum: 10 feet<br>• Setback may be less than 10 feet only if there is an existing structure on the same property with a setback of less than 10 feet.<br>• Stormwater required to be contained on subject parcel.<br>• Separation between all structures, on same and adjacent property, must comply with the International Building Code and other companion codes. |
| Maximum Building Height | 35 feet<br>• Proposed development adjacent to the DDC, Downtown Development Code or Picacho Avenue may obtain a 35% Flexible Development Standard approval from the Community Development Director for structures greater than 35 feet, and will be considered on a case-by-case basis. If adjacent use is single-family residential, this exception shall not apply.<br>• For buildings greater than 2 stories, the upper stories shall be stepped back from the line of the front facade (see definitions). |
| Maximum # Attached Units | 4 |
| Maximum Density | 20 Dwelling Units/Acre |

| 2. PLACEMENT OF PRIMARY STRUCTURES—NONRESIDENTIAL | |
|---|---|
| Lot Area/Size | Minimum: 5,000 square feet<br>Maximum: Not to exceed size of largest existing lot on both sides of the same block.<br>Applications for replats that would result in a larger lot size will be considered on a case-by-case basis. |
| Minimum Lot Width/Frontage | 60 feet |
| Minimum Lot Depth | 70 feet |
| Front Setback (Incl. Secondary Front Setback) | 5 feet<br>• Setback may be less than 5 feet only if there is an existing structure on the same property with a setback of less than 5 feet.<br>• Buildings that request a greater setback shall use that setback frontage for active or passive open space as defined herein. Under no circumstances shall outdoor sales or service activities |

| 2. PLACEMENT OF PRIMARY STRUCTURES—NONRESIDENTIAL | |
|---|---|
| | encroach on the public right-of-way.<br>• Awnings and entrance canopies may protrude into the setback.<br>• Second story bay windows, porches, decorative elements, landscaping, etc. may protrude into the setback. |
| Side Setback | Minimum: 5 feet<br>• Setback may be zero only if there is an existing structure on the same property with a zero setback.<br>• Stormwater required to be contained on subject parcel.<br>• Separation between all structures, on same and adjacent property, must comply with the International Building Code and other companion codes. |
| Rear Setback | Minimum: 10 feet<br>• Setback may be less than 10 feet only if there is an existing structure on the same property with a setback of less than 10 feet.<br>• Stormwater required to be contained on subject parcel.<br>• Separation between all structures, on same and adjacent property, must comply with the International Building Code and other companion codes. |
| Maximum Building Height | 35 feet<br>• Proposed development adjacent to the DDC, Downtown Development Code or Picacho Avenue may obtain a 35% Flexible Development Standard approval from the Community Development Director for structures greater than 35 feet, and will be considered on a case-by-case basis. If adjacent use is single-family residential, this exception shall not apply.<br>• For buildings greater than 2 stories, the upper stories shall be stepped back from the line of the front facade (see definitions). |

| 3. PLACEMENT OF GARAGES, SURFACE PARKING, SECONDARY RESIDENCES & ACCESSORY STRUCTURES | |
|---|---|
| Front Setback —<br>Residential and Nonresidential | Garage (Single-Family Residential only): To maintain the historic context of buildings in the neighborhood, garages may be placed within the range of garage front setbacks on both sides of the same block. This ensures that the placement of newly constructed garages is compatible with the location of existing garages in the immediate area and is consistent with the existing integrity and character of the street frontage. If there are no garages on the block to provide a range, the garage setback will be 25 feet.<br>Other: No closer than the rear facade of the primary building(s), 40 feet, or at least 50% of the lot depth, whichever is less. |
| Secondary Front Setback —<br>Residential and Nonresidential | Surface Parking: 8 feet<br>Other: 10 feet |
| Side Setback —<br>Residential and Nonresidential | A setback is not required.<br>• No encroachment into ROW permitted.<br>• Stormwater required to be contained on subject parcel.<br>• Separation between all structures, on same and adjacent property, must comply with the International Building Code and other companion codes. |
| Rear Setback —<br>Residential and Nonresidential | A setback is not required.<br>• No encroachment into ROW permitted.<br>• Stormwater required to be contained on subject parcel.<br>• Separation between all structures, on same and adjacent property, must comply with the International Building Code and other companion codes. |
| At the minimum, all setbacks shall meet clear sight triangle requirements, and where applicable, encroachment agreements must be entered into. Variances to clear sight triangle will be considered by the public works department. | |

g) Property alteration, remodel, or renovation.

i) Purpose. Property alterations, remodels or renovation standards are established for this district to maintain consistent quality for all development and may be used for the purpose of adaptive re-use of the structure. For the purposes of this section, exterior remodel, renovation, or alteration shall be defined as: Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, as well as any change in roof lines, or any enlargement to or diminution of a building or structure, whether horizontally or vertically. Normal maintenance activities, as verified by the Building Official, are exempt from this provision.

ii) Minor modifications. In most cases, expansion and/or modifications to a property must comply with the development standards of the Alameda Depot Neighborhood Overlay. However, if, through the determination of the Community Development Director, said compliance would substantially create an undue burden to the property owner or create a condition whereby the expansion and compliance measure, partially applied, would be substantially out of character with the existing development, an exception may be made. In no case shall a minor modification/expansion:

a. Equal or exceed a cumulative total of 15 percent of the gross floor area; or

b. Equal or exceed a cumulative total of $25,000.00 in valuation; or

c. Impact parking or landscape requirements.

iii) Any proposal meeting one or more of the above criteria shall not be considered as a minor addition and/or modification, and shall, therefore, be subject to normal review and consideration afforded development in the overlay and may be subject to nonconforming provisions that follow. The applicant must provide estimates for the cost of labor as a means of ensuring compliance with the valuation criteria. Once permission to proceed has been granted by the Community Development Director, the applicant may apply for the permit. Work shall not commence until permit approval is granted. All other nonconforming use requirements are subject to **Sec. 36-5.G. Nonconformities**.

h) Nonconforming uses, structures, and property. Nonconforming uses, structures and property that legally existed at the time of adoption of this overlay shall be considered legal nonconforming, and shall comply with the nonconforming use provisions found below.

i) Land uses that were legally in place at the time of adoption of this overlay and remain legal uses may continue to the extent the subject regulations allowed, but shall be required to come into compliance with current overlay standards when the following provisions take place:

a. The property remains vacant for a period of one continuous year or greater; or

b. Land use. A change in use occurs on the property that results in the alteration of the use intensity, e.g., low volume retail to high volume retail; use orientation, e.g., service to retail; or density, e.g., eight dwelling units to 15 dwelling units; or change in occupancy type from the building code perspective; or

c. Right-of-way or lighting. When nonconforming features regarding access from the right-of-way or lighting are involved, these features shall be brought into compliance with current standards when any one-time or cumulative increase of 15 percent or greater to the gross square footage of building area occurs; or

d. Signage, landscaping, walls or parking. When nonconforming features regarding signage, landscaping, walls or parking are involved, these features shall be brought into compliance with current standards when any one-time or cumulative increase of 25 percent or greater to the gross square footage of building area occurs; or

e. Development standards. Any noncompliant issues pertaining to setbacks, number of attached units and/or maximum density of existing development shall be brought into compliance with overlay standards to the extent possible. A nonconforming certificate may be issued based on appropriate documentation. Determination of the extent of compliance shall rest with the Community Development Director. Compliance with these matters shall not be triggered when a certificate has been issued as appropriate.

ii) Legal uses that existed prior to ordinance adoption (2010) that become a prohibited use with adoption may be allowed to continue to exist and may expand or enlarge (either one-time or cumulative increase) not more than 50 percent in gross square footage of lot or building area, provided that:

a. The property has not remained vacant for a period of one continuous year or greater; or

b. A change in use has not occurred on the property which results in the alteration of the use intensity (e.g., low volume retail to high volume retail); or use orientation (e.g., service to retail).

iii) Exceptions. Regarding any of the above, any one-time or cumulative increase of less than 15 percent to the gross square footage of building area may take place without requiring compliance to any nonconforming element associated with the property. Exceptions to this provision include those matters the city requires compliance on for purposes of meeting health, safety, and welfare concerns.

i) The Development Review Committee shall review applications for other Flexible Development Standards not specifically outlined herein based on requirements cited in **Sec. 34-3.E**.

j) Parking requirements.

| Community Development Department staff shall review plans for adherence to parking requirements. Parking requirements shall follow **Sec. 38-2.N. Off-Street Parking**, with the exceptions stated below: | | |
|---|---|---|
| 1. | Parking Ranges | Parking requirements for automobiles and bicycles are set for land uses in each zone, as noted in **Sec. 36-3.A. Permitted Uses**. Requests to reduce parking requirements shall be evaluated on a case-by-case basis by the Community Development Director. |
| 2. | Off-street Parking Location | Parking areas for nonresidential and multifamily uses shall be located to the side or back of the subject property and screened or buffered when visible from the street. (See subsequent section below, "Landscape requirement, planting for parking lots.") |
| 3. | Adjustments in Required On-Site Parking Spaces | The following provisions are methods to reduce the number of required on-site parking spaces. Any combination of the following options may be used, but in no event shall the reduction amount to more than 50% of the total requirement. The minimum number of parking stalls required is two. These provisions may not be utilized for required accessible parking spaces.<br>a. **Flexible Development Standards.**<br>Applicant may utilize "Tier 1" Flexible Development Standards (**Sec. 34-3.E**) to reduce the number of required on-site parking spaces by up to 25%. Requests to utilize this option shall be evaluated on a case-by-case basis by the Community Development Director. Applicant may utilize this option in combination with other parking reduction options.<br>b. **On-street Parking.**<br>In areas where the city has determined that on-street parking is permissible, this parking may be used for up to 25% of the required parking. On-street parking shall be permitted on all local roadways or as deemed appropriate through a traffic analysis conducted and/or approved by the Public Works Director.<br>c. **Shared Off-street Parking Areas.**<br>Multi-dwelling and nonresidential uses are encouraged to seek shared parking agreements with other multi-dwelling and nonresidential uses on nearby properties. In general, shared parking agreements shall follow criteria found in **Sec. 38-2.N.4.c)ii) Shared and Joint Use of Parking Areas**. Properties within one-fourth mile, as measured along the street network and pedestrian right-of-way, may be considered when determining how parking demand will be met.<br>d. For properties in the Alameda Depot Neighborhood Overlay that are listed as "significant" or "contributing" on the state or National Register of Historic Places and are utilized for office or commercial purposes, it is possible to allow exceptions to the number of on-site parking spaces required in exchange for the improvement or maintenance of the subject property in terms of the building and/or landscaping.<br>e. Other methods to reduce the total number of parking spaces will be considered on a case-by-case basis by the Community Development Director. These provisions follow **Sec. 38-2.N.4.c) Off-Street Parking Alternatives and Reductions**. They include:<br>• Adding more bicycle parking<br>• Adding more landscaping<br>• Building a parking structure<br>• Arranging tandem parking stalls<br>• Providing bus stop or bus shelter at bus stops within one-fourth mile |
| 4. | Walkways | In parking lots larger than one acre or equal to or greater than 200 feet wide, walkways within the lot shall link perimeter sidewalks to primary building entrances. |
| 5. | Prohibited Parking | All vehicles are to be parked along designated streets, in designated driveway or parking areas only. Parking on front lawns and/or landscaped areas shall be prohibited. |
| 6. | Dimensions and ADA Standards | All standards for parking dimensional and ADA requirements for all development within the district shall be consistent with **Sec. 38-2.N. Off-Street Parking**. |
| 7. | Driveways | Driveways width shall comply with city design standards. |

k) Landscape requirements. The abundance of mature shade trees in the Alameda Depot neighborhood contributes to the distinct character of the area. Landscape requirements are intended to protect this verdant landscape through the careful selection of plants and the implementation of water conservation principles. Community development department staff shall review landscape plans for adherence to the landscape requirements. Landscaping shall follow **Sec. 38-7. Landscaping** with the following exceptions and specifications:

i) Applicability*:* Landscaping standards apply to all new development and redevelopment in the ADO with the exception of properties that are occupied by single-family residences and duplexes. Where conflict in regulation exists, the provisions of this section shall supersede other landscaping requirements within the Municipal Code.

ii) Areas to be landscaped: The required area to be landscaped is equal to a minimum of 25 percent of the entire parcel area, excluding the main building area. Landscape consists of native or drought-tolerant species of both overstory (shade and coniferous trees) and understory plantings (ornamental trees, shrubs, cacti and perennial grasses, groundcovers and flowers).

iii) Landscape shall be defined as:

a. A minimum of one two-inch caliper tree, 15 five-gallon shrubs and either five one-gallon shrubs or 50 square feet of groundcover plants shall be installed per each 500 square feet of provided landscape area.

b. All plant materials shall be species native to the Chihuahuan Desert or adapted to our climate and to the location of the Alameda Depot neighborhood in the valley. This is not to say that the landscape plan needs to adhere to "zero-scaping." Rather, plants should be chosen that will survive and thrive in the local climate. Appropriate species include, but are not limited to, those in the following table. It is recommended that the applicant consult with a professional landscape architect or the Dona Ana County Master Gardeners regarding appropriate plant selection.

| TREES | SHRUBS | GROUNDCOVER |
|---|---|---|
| Arizona Ash<br>Arizona Cypress<br>Arizona Mesquite<br>Canyon Hackberry<br>Chinese Pistache<br>Desert Willow<br>Italian Cypress<br>Lacebark Elm<br>Palo Verde<br>Pecan<br>Pines<br>Southern Live Oak<br>Texas Honey Mesquite<br>Texas Red Oak<br>Sycamore<br>Western Hackberry | Euonymus<br>Juniper<br>Pyracantha<br>Sages (Texas, Chihuahuan, Desert, Cherry, Russian)<br>Silverberry<br>Spanish Broom | Bermuda<br>TIFF, various<br>Vinca<br>Horizontal Juniper<br>Trailing Rosemary<br>Iceplant<br>Creeping Thyme<br>Powis Castle Artemesia<br>Dalea capitata<br>Clover Fern |

c. All landscape planting should serve to enhance the architectural value of the building, ground the building in the site, create a pleasant and attractive environment for pedestrians, and mitigate environmental conditions such as excess heat, strong winds, and air pollution.

d. Trees shall include shade-producing trees that achieve a mature size of at least 25 feet high and 25 feet spread and ornamental trees that have particular features such as spring blooms, fall foliage color, or bark characteristics.

e. Shrubs shall include a mix of deciduous and evergreen plants.

f. Groundcovers shall serve to prevent soil erosion, provide color, and create an oasis feeling.

iv) Installation. The irrigation system and landscaping shall be installed before the completion of building construction and prior to the issuance of a certificate of occupancy unless a written agreement has been made with the city. Such agreements extending the time of installation will be for a maximum period of nine months, and shall be subject to temporary certificate of occupancy provisions and fees.

v) Planting for parking lots. All new construction and adaptive reuse of properties shall require planted parking areas. Landscaping in parking areas shall follow **Sec. 38-7.D.5. Parking Lot Landscaping** with the following exceptions or specifications:

a. One tree shall be planted for every five parking spaces within parking lots as they pertain to the uses listed for each area.

b. Trees may be located between the parking lot and the building, or within the parking lot itself. In the event that the landscaped area is between the building and the lot, the area shall be no less than eight feet in width.

c. In the event that the parking area is compliant with development standards above and remains adjacent to public right-of-way, there shall be a landscape buffer no less than eight feet wide between the building and the sidewalk or street. The buffer strip shall consist of shade trees and low shrubs or perennial flowers, which may count toward the landscape requirement specified above.

d. Trees in parking lots shall be located in an island or planter in which the tree trunks, at mature size, shall be protected from motor vehicles. Islands and planters shall be a minimum of six feet wide, have a minimum area of 36 square feet and a raised border of at least four inches in height.

vi) Property owners wishing to install landscaping in City right-of-way (for example, parkways or medians) shall first complete a maintenance and liability agreement with the Public Works Department, with the understanding that liability and maintenance shall be property owner's responsibility.

vii) In the event that a tree in City right-of-way must be removed in order to maintain or replace sidewalks, the regulations found in the Municipal Code Chapter 26, Article II, Division 2. Repair and Replacement of Sidewalks, shall be followed.

l) Walls and fences.

i) Existing fences within the district shall remain in place so long as they conform to the standards stated herein. Increases in structure height, length, or configuration shall require full compliance with fencing/wall requirements.

ii) Historic structures. On properties with contributing structures listed on the state or National Historic Register, new walls or fencing should complement or be in keeping with the style of the structure to the greatest extent possible demolition, removal or alteration of existing historic fences, walls, retaining walls, and steps is discouraged.

iii) Fences, walls, and hedges facing the street shall adhere to clear sight triangle regulations (see **Sec. 38-2.H. Clear Sight Triangle**).

iv) Fences, walls, and hedges that are within the rear and side yards shall be limited to a height of eight feet.

v) Retaining walls shall be designed in a manner limiting their height to what is absolutely necessary for the retaining purpose intended.

vi) All other provisions regarding walls and fences not noted herein shall follow those found in **Sec. 38-8. Fencing, Screening, and Buffering**.

m) Signs. All signage shall be of suitable materials and design so as to be compatible with the architecture of the structure and the residential character of the neighborhood. Sign permit applications shall be submitted for approval to the community development department in accordance **Sec. 38-10. Signs**, unless specified below.

i) Freestanding signs.

a. Ground signs shall be the only freestanding sign allowed within the ADO, and shall be no greater than 24 square feet in size and four feet in height. One sign per lot shall be permitted.

b. Freestanding signs are not permitted on parcels used for residential purposes, except for a development identification sign.

c. Ground signs may be illuminated, and shall follow regulations stated in **Sec. 38-9. Outdoor Lighting**.

d. Properties developed as business centers shall conform to the following:

i. A property containing a business center sign may not have additional freestanding signs, except for temporary signage, which shall follow **Sec. 38-10. Signs**.

e. Ground signs shall be placed at least five feet from the outside edge of the right-of-way, and at least five feet from adjacent property lines and not within the clear sight triangle as defined by **Sec. 38-2.H. Clear Sight Triangle**.

f. Freestanding multi-use development directory signs are not permitted.

ii) Attached signs.

a. Wall signs:

i. One square foot of signage for each linear foot of exterior wall space, not to exceed 50 square feet per wall.

ii. The sign(s) shall be placed on the side of the building used to calculate the square footage of the sign.

iii. Window and projecting signage shall be considered types of wall signs.

b. Home-occupation or live-work uses in residential areas shall be allowed one non-illuminated attached sign no greater than four square feet in size. Freestanding signs shall not be permitted for home-occupation or live-work uses.

c. Projecting signage:

i. Projecting signs shall be considered double-faced signs with each sign face of equal size. Only one side shall be used to determine the square footage.

ii. Projecting signs shall not exceed six square feet in sign face area.

iii. Only one projecting sign shall be allowed per business per street frontage.

iv. Only ground floor commercial businesses shall be permitted to utilize projecting signs.

v. Projecting signs must clear walkable areas by at least eight feet as measured from the bottom of the sign to grade and may project no more than four feet from the building or closer than two feet to the sidewalk, whichever is less.

vi. Projecting signs shall be installed at right angles to a building front.

d. Window signs:

i. There shall be no more than one permanent window sign per window.

ii. Neon signs displayed indoors constitute permanent window signs. Only one neon sign shall be permitted per business facade.

iii. The total coverage of all permanent, neon, and temporary window signs shall not exceed 25 percent of the total glass area of the window.

iii) Prohibited signs*:* The following signs are prohibited in the Alameda Depot Neighborhood Overlay:

a. Variable electronic message display boards, whether temporary or permanent.

b. Portable and pole signs, whether temporary or permanent.

c. Permanent banners.

d. Pennants, streamers, and other fluttering devices, whether temporary or permanent.

e. Real estate, construction, contractor and "coming soon" signs over 12 square feet in area or over five feet tall.

f. Billboards.

g. All other signs as prohibited in **Sec. 38-10.D. Prohibited Signs**.

iv) Temporary signs*:* Temporary signs shall follow provisions found in **Sec. 38-10. Signs**.

n) Demolition. To preserve any contributing structure listed on the historic register (state or national) in the Alameda Depot Neighborhood Overlay, this section creates a 60-day demolition permit review process that allows time for interested parties to explore alternatives to the demolition of historic structures. Demolition for all other structures shall follow section 30-491 of the LCMC.

i) Demolition permit. Demolition permit applications shall be submitted to the Community Development Department prior to any demolition activity taking place. Community Development Department staff will review the application for compliance with the LCMC. A proposal for redevelopment of the property must accompany the permit application.

ii) Posting. At the beginning of the 60-day demolition permit review process, the Community Development Department will issue a sign that is to be posted in a conspicuous place on the property. The applicant is responsible for posting the sign and ensuring that it is in place for the entire 60-day period.

iii) At the beginning of the 60-day demolition permit review process, the Community Development Department will inform the neighborhood associations, the New Mexico State Historic Preservation Office (SHPO) and the Dona Ana Historical Society that a demolition permit has been applied for.

iv) A demolition permit shall be issued upon the completion of the following items: 1) the completion of the 60-day period; and 2) the application meets all City Code requirements and has been approved by the Community Development Department staff. (The applicant may use the 60-day time period to resolve any necessary Code compliance comments.) The permit application may be withdrawn by the applicant at anytime without charge.

v) Prior to the demolition of a historic structure, the applicant shall be responsible for fully documenting the structure, both interior and exterior, to provide a permanent record, in accordance with documentation procedures as follows. The demolition permit will not be approved without submittal and approval of this documentation by Community Development staff.

a. Complete the Historic Cultural Property Inventory (HCPI) forms 1 and 2, available in the Community Development Department and online at:

b. Photograph the historic property: Take several exterior photos of the structure to be demolished (front, rear, sides, close-up views, details, setting, etc.). Photo processing, printing and labeling shall follow the protocol established on the National Register Photo Policy Fact Sheet, available in the Community Development Department and online at:
http://www.nps.gov/history/nr/publications/guidance/Photo_Policy_final.pdf

c. If measured drawings done by the Historic American Building Survey exist, the owner should annotate the drawings, showing changes to the property, interior and exterior, that have occurred up to the current date.

d. If known, a short history of the property should be included, in order to document how that property fits within the historic district or community.

e. The demolition permit will not be approved without submittal and approval of this documentation by Community Development staff.

vi) Compliance with the procedure set out in this section is not required if it is determined by the City of Las Cruces that the immediate demolition of a historic structure is in the best interest of public health, safety and welfare. The applicant shall be responsible for documenting the structure in accordance with the procedure above to fully demonstrate the need for demolition and to provide a historic record of the structure. In the event that entering the structure would pose a threat to the health, safety and welfare of the documenter, interior photos are not required. This documentation must accompany the memo of determination for demolition by the building official prior to the issuance of a demolition permit.

o) Land use/zone change requests. To request a land use that is not permitted in the current district follow the process outlined in **Sec. 36-5.A. Zoning Map Amendments** to request a conditional zone change .

p) Submittal and review process. The following submittal and review procedures are established for all new development to protect persons and property in the Alameda Depot Neighborhood Overlay. The applicant shall submit at minimum, one copy of all application materials to the Community Development Department for review. Upon submittal, staff shall review the submittal for completeness. If all the required items have been submitted, the Community Development Department shall issue a receipt for submittal.

i) Buildings/structures. Prior to the filing of an application for development and/or signs, a pre-application conference with Community Development Department staff to review the proposal is strongly encouraged.

ii) Subdivisions. For submittal and review of subdivisions, refer to **Sec. 37-2. Subdivision Procedures**.

iii) Signs. Sign permit applications shall be submitted for approval to the Community Development Department in accordance with **Sec. 38-10. Signs** and **g)** above.

iv) Numerical deviations to the requirements of **Sec. 38-2.H. Clear Sight Triangle** shall be considered, reviewed, and denied or approved by the Public Works Director.

q) Appeals. Any aggrieved person who is affected by a decision of an administrative official, commission, committee, or board in the enforcement of the Alameda Depot Neighborhood Overlay may appeal such decision in accordance with **Sec. 34-3.F. Appeals**.

r) Enforcement of overlay zone district. Provisions to enforce this section shall be consistent with the enforcement provisions of **Sec. 34-1.H. Violations and Enforcement**.

3. LCIIP, Las Cruces Industrial Innovation and Industrial Overlay Zone District

a) Purpose

The purpose of the Las Cruces Innovation and Industrial Park Overlay Zone District is to guide development within the Park and implement the policies found in the LCIIP Master Plan. It aims to promote the natural and existing environment within the Park, and encourage employment options for residents while enhancing the overall aesthetic features of the Park.

b) Applicability of Industrial Park Overlay Zone District boundaries

The Las Cruces Innovation and Industrial Park Overlay Zone District shall apply to all properties within the Overlay Zone District as identified in **Figure 36-2-16. LCIIP Zoning Designations** below. Most of the Park is regulated by the Overlay Zone District requirements except a few parcels, as indicated in **Figure 36-2-16. LCIIP Zoning Designations**. The Overlay Zone District includes permitted and prohibited uses along with development standards for site, architecture, landscape, and parking.

c) Land Use Districts

As established in Elevate Las Cruces, "Business Park and Industrial areas are reserved for concentrations or warehousing, trade, transportation, research and development, manufacturing, and industrial uses" (Elevate Las Cruces, Volume I, pg. 35).

d) Land Use Framework

i) The goal of the Land Use Framework is to accommodate a range of uses, with the intent of creating synergy between businesses with similar or complementary activities.

ii) The Land Use Framework also establishes a commercial district adjacent to Interstate 10. Uses such as restaurants and retail are permissive here to provide and encourage services to the local workforce. The Land Use Framework establishes four districts with specific permissive land uses. Since the Las Cruces Innovation and Industrial Park Overlay Zone District allows a wide variety of uses and covers almost all the land area within the Park boundary, the Land Use Framework establishes land use districts to group similar or complementary uses to provide a more organized built environment. The Land Use Framework, as illustrated in **Figure 36-2-15. LCIIP Overlay Zone & Districts**, breaks the Park down into four districts:

a. Value added agriculture;

b. Manufacturing/warehousing/distribution;

c. Aerospace/aviation/defense; and

d. Commercial.

iii) The Value-Added Agriculture district is located south of Interstate 10 in the southeastern portion of the Park. It is intended to accommodate agriculture-related manufacturing and other processes that enhance the value of basic agricultural commodities. Most of the parcels are larger in size to provide sufficient land for these types of activities.

iv) The Manufacturing/Warehousing/Distribution district is located south of Interstate 10 in the southwestern portion of the Park. It is intended to accommodate manufacturing, warehousing, and distribution types of uses. It offers a range of parcel sizes and has good access to the interstate.

v) The Aerospace/Aviation/Defense district is located north of Interstate 10 and is adjacent to the Las Cruces International Airport. It is intended to accommodate aviation- and defense-related uses and offers a range of parcel sizes with direct access to the airport.

vi) The Commercial district is located adjacent to Crawford Boulevard, on both sides of the Interstate 10 interchange. It is intended to accommodate commercial uses that offer services to the local workforce and interstate-associated business opportunities. This district has smaller parcel sizes more suited for uses like restaurants, with good visibility and access from the interchange.

e) Development Process

All development within the Overlay Zone District shall follow the applicable City of Las Cruces development processes.

**Figure 36-2-15. LCIIP Overlay Zone & Districts**

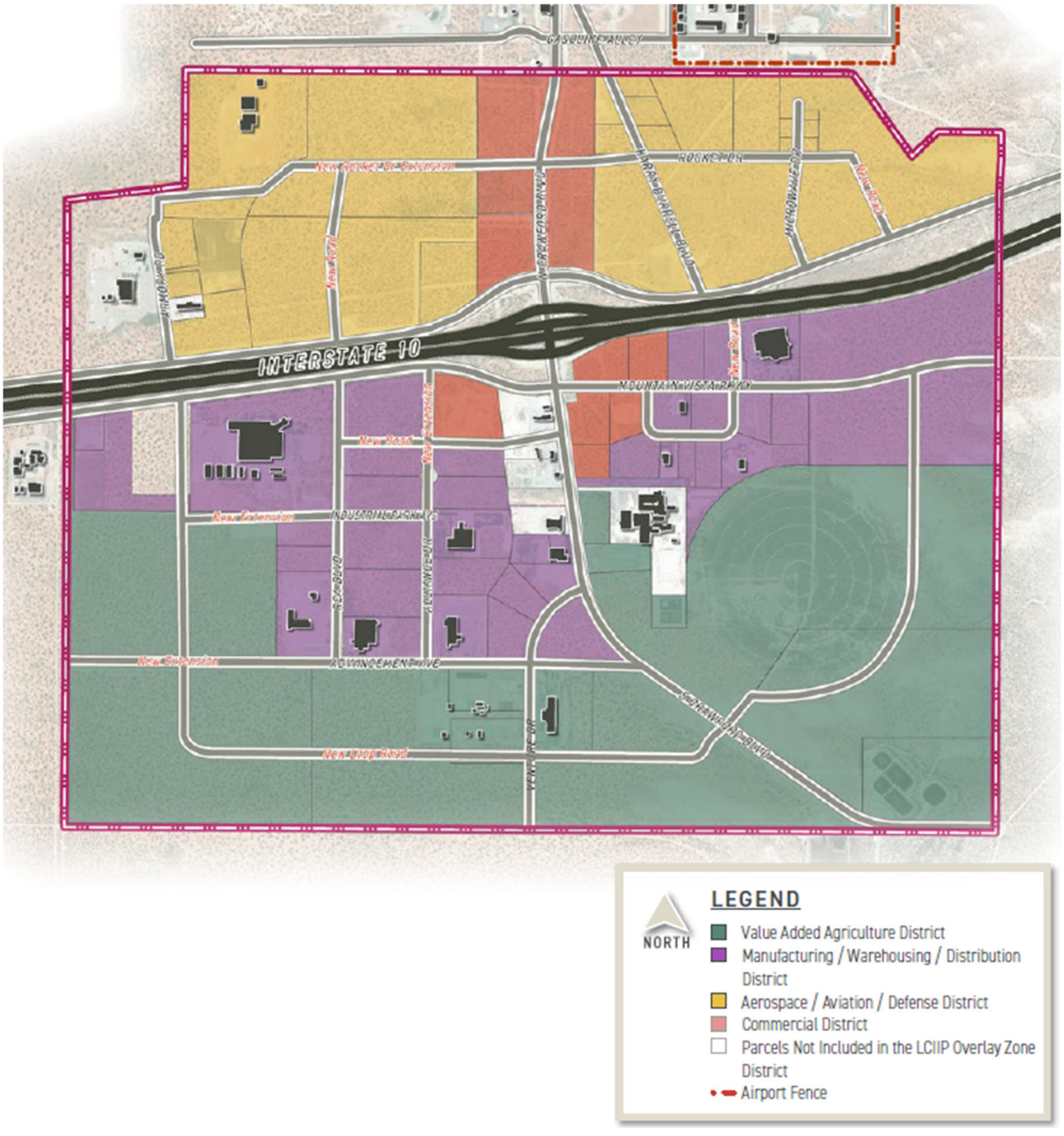


**Figure 36-2-16. LCIIP Zoning Designations**



f) Land Uses

**Figure 36-2-17. LCIIP Use Table** allocates uses into four Land Use Districts. A dash ("-") indicates the use is not permitted while a "P" indicates that a use is permitted. An "A" indicates that a use is accessory. Associated Conditional Use Standards are indicated with an "X" and detailed in Section "Conditional Use Standards." This indicates that a use is permitted with conditions. Uses not specified in **Figure 36-2-17. LCIIP Use Table** will be determined by the Community Development Director in consultation with the Economic Development Director.

**Figure 36-2-17. LCIIP Use Table**

| — = Not permitted<br>P = Permitted Use<br>A = Accessory Use<br>X = Existing Conditional Use Standard(s) | Commercia l | Manufacturing/ Warehousing | Aerospace/ Aviation/ Defense | Value Added Agriculture | Conditional Use |
|---|---|---|---|---|---|
| **RESIDENTIAL USES** | | | | | |
| All Residential Uses (except accessory dwelling units as outlined under the Accessory Use category) | — | — | — | — | |
| **CIVIC AND INSTITUTIONAL USES** | | | | | |
| Higher Education, Vocational School | P | P | P | P | |
| Fire and Police Station | P | P | P | P | |
| Military and Law Enforcement Agency | — | P | P | P | |
| Parks and Open Space | P | P | P | P | |
| **COMMERCIAL USES** | | | | | |
| Agriculture & Animal Related | | | | | |
| General Agriculture | — | P | — | P | X |
| Small Animal Facilities | P | P | — | P | X |
| Food, Beverage, Entertainment & Lodging | | | | | |
| Brewery, Microbrewery Facilities, Tasting Rooms | P | P | — | P | X |
| Food, Beverage, Hotel or Motel | P | — | — | — | |
| Indoor Entertainment/Recreation Venues | P | — | — | — | |
| Nightclub and Bar | P | — | — | — | |
| Motor Vehicle-Related | | | | | |
| Freight House or Truck Terminal | — | P | P | P | |
| Vehicle Services | P | P | — | P | X |
| Offices and Commercial Services | | | | | |
| Offices and Research Facility | P | P | P | P | |
| Commercial Services and General Retail | P | — | — | — | |
| Construction Contractor Facility and Yard | — | P | P | P | X |
| Outdoor Entertainment | | | | | |
| Outdoor Entertainment | P | P | - | - | X |
| **INDUSTRIAL USES** | | | | | |
| Manufacturing, Fabrications & Assembly | | | | | |
| Cannabis Cultivation, Infused Products Manufacturing | — | P | — | P | X |
| Light Manufacturing | P | P | P | P | X |
| Heavy Manufacturing | — | P | P | P | X |

| — = Not permitted<br>P = Permitted Use<br>A = Accessory Use<br>X = Existing Conditional Use Standard(s) | Commercia l | Manufacturing/ Warehousing | Aerospace/ Aviation/ Defense | Value Added Agriculture | Conditional Use |
|---|---|---|---|---|---|
| Special Manufacturing | — | P | — | P | X |
| Natural Resource Extraction | — | P | — | — | |
| Recycling Sort Facilities and Electronics Recycling (paper/plastic/metal sorting-only and electronics recycling) | — | P | — | — | |
| Film and Media Production | | | | | |
| Film and Media Production | P | P | P | P | |
| Telecommunications, Towers, and Utilities | | | | | |
| Drainage & Major Utility, other | P | P | P | P | |
| Solar Energy Generation | — | — | P | P | X |
| Telecommunications, towers, and utilities | P | P | — | P | X |
| Wholesaling and Storage | | | | | |
| Outdoor Storage | — | P | P | P | X |
| Warehousing, Logistics, and Distribution | — | P | P | P | |
| **TEMPORARY USES** | | | | | |
| Construction Staging Area, Trailer, or Office | P | P | P | P | |
| Seasonal Outdoor Sales, Events | P | — | — | — | |
| **ACCESSORY USES** | | | | | |
| Commercial/Office Uses | A | A | A | A | X |
| Residential Use—Non-Primary | A | A | A | A | X |
| Parking Garage with/without Liner Building | A | A | A | A | |
| Recreational Vehicle Parking Stalls/Hook-Ups | P | — | — | — | X |

i) Prohibited Uses

The following uses are prohibited:

a. All uses prohibited under FAA regulations;

b. All adult amusement establishments;

c. All residential uses, except as established under the accessory use category.

ii) Conditional Use Standards

a. Aerospace/Aviation/Defense District

i. All uses in the Aerospace & Aviation District shall comply with all applicable FAA regulations.

b. Commercial Uses

i. Agriculture and Animal Related

(a) General Agriculture

(i) Animals shall be confined to graze within the appropriate boundaries and cannot graze on surrounding properties and streets.

(ii) The keeping of large and small livestock animals shall comply with the City of Las Cruces Municipal Code.

(b) Small Animal Facilities

(i) Kennels must be conducted within fully enclosed building. Outdoor pens shall be enclosed on all sides by a wall or fence at least six feet high.

(ii) This use must be screened as required by **Sec. 36-2.D.3.h)vii) Walls, Fences, and Screening**.

ii. Food, Beverage, Hotel or Motel

(a) Brewery and micro-brewery facilities, including tasting rooms.

(i) Alcohol sales for on-premises consumption is allowed, provided that the establishment complies with all New Mexico State law requirements.

iii. Motor Vehicle-Related

(a) Vehicle Services

(i) This use must be screened as required by **Sec. 36-2.D.3.h)vii) Walls, Fences, and Screening**.

(ii) Vehicle repair, servicing, and maintenance shall be conducted within a fully enclosed building.

(iii) Recreational Vehicle/Parking Stalls/Hook-ups are ancillary to the primary use and cannot be a standalone land use.

iv. Offices and Commercial Services

(a) Construction Contractor Facility and Yard

(i) This use must be screened as required by **Sec. 36-2.D.3.h)vii) Walls, Fences, and Screening**.

v. Outdoor Entertainment

(a) Outdoor Entertainment

(i) Drive-In Theater use shall be enclosed with a wall, fence, or vegetative screen of at least six feet in height. A screen located less than 500 feet from Interstate 10 shall be shielded so that the picture surface cannot be seen from Interstate 10.

(ii) All other outdoor entertainment uses shall include fencing or screening meeting the standards established in **Sec. 36-2.D.3.h)vii) Walls, Fences, and Screening** designed to prevent any objects from passing beyond the property line and onto surrounding properties and streets. Uses shall be limited to one acre in size.

iii) Industrial Uses

a. Manufacturing, Fabrications & Assembly

i. Cannabis cultivation, Infused Products Manufacturing

(a) This use shall comply with all New Mexico State law requirements.

ii. Light Manufacturing

(a) All activities in this use shall be conducted within a fully enclosed building unless a Special Use Approval is obtained pursuant to the City of Las Cruces Special Use Permit Process.

(b) Incidental outdoor storage is permitted but must comply with **Sec. 36-2.D.3.h)vii) Walls, Fences, and Screening**.

(c) This use may include a sales/display room for items manufactured on the property.

iii. Heavy Manufacturing

(a) This use may be conducted outside of a building, provided the activities are screened from view according to **Sec. 36-2.D.3.h)vii) Walls, Fences, and Screening**.

(b) Incidental outdoor storage is permitted but must comply with **Sec. 36-2.D.3.h)vii) Walls, Fences, and Screening**.

iv. Special Manufacturing

(a) This use must obtain all applicable State and federal permits or approvals for the activity and comply with the terms of those permits and approvals throughout the duration of the activity.

(b) This use may be conducted outside of a building, provided the activities are screened from view according to **Sec. 36-2.D.3.h)vii) Walls, Fences, and Screening**.

b. Telecommunications, Towers, and Utilities

i. Solar Energy Generation

(a) This use must obtain all applicable State and federal permits or approvals for the activity and comply with the terms of those permits and approvals throughout the duration of the activity.

ii. Telecommunications, Towers, and Utilities

(a) This use shall comply with the City of Las Cruces Municipal Code.

c. Wholesaling and Storage

i. Outdoor Storage

(a) This use must be screened as required by **Sec. 36-2.D.3.h)vii) Walls, Fences, and Screening**.

iv) Accessory Uses

a. Accessory Commercial Uses

i. In all districts, all uses listed under the 'Food, Beverage, Entertainment & Lodging' use and 'Offices and Commercial Services' use category shall be permissive as an accessory use not to exceed a maximum of 40 percent of the gross floor area of the building for commercial purposes associated with that specific industrial or manufacturing use.

b. Accessory Residential Use—Non-Primary

i. Residential use—non-primary is allowed for caretakers of the primary non-residential use and may be attached or detached.

g) Administration and Enforcement

i) Applicability

The following development standards shall apply to all parcels located within the Overlay Zone District's boundary as identified on **Figure 36-2-15. LCIIP Overlay Zone & Districts**. City of Las Cruces Municipal Code standards shall apply unless otherwise stated in the document.

ii) Non-Conforming

a. Uses and structures that are non-conforming with the standards of the Las Cruces Innovation and Industrial Park Overlay Zone District shall comply with this section.

i. There are two instances of non-conformance:

(a) Instance 1: A non-conforming use/structure which was initiated/constructed prior to the adoption of the Overlay Zone District standards.

(b) Uses that are classified as instance 1 may continue in perpetuity unless the use ceases for a period of no less than 12 consecutive months. However, the use/structure cannot be expanded, enlarged, or extended.

(c) Instance 2: A non-conforming use/structure initiated/constructed after the adoption of the Overlay Zone District standards.

(d) Uses that are classified as instance 2 shall be brought into compliance immediately and shall not be permitted to expand.

h) General Development Standards

i) Streets and Public Right-of-Way

a. All streets within Las Cruces Innovation and Industrial Park must adhere to City of Las Cruces Design and Roadway Construction Standards currently amended/adopted.

b. Property owners shall provide dedicated right-of-way including easements for trail corridors and pedestrian facilities.

c. The property owner is responsible for providing landscaping in accordance with standards outlined in this section in contiguous parkways and medians at the time of site development.

d. All additions, rehabilitation, remodeling, or structural modifications to existing buildings with a value of $100,000.00 or more, including all new parking lots require installation of parkway and median landscaping.

e. Landscape in parkways and medians shall be maintained by the property owner of the contiguous property.

ii) Dimensional Standards

a. All buildings and structures within Las Cruces Innovation and Industrial Park will be limited to the following development requirements:

**Figure 36-2-18. LCIIP Dimensional Standards**

| Dimension | Minimum |
|---|---|
| Minimum Lot Width | 60 feet |
| Minimum Lot Depth | 70 feet |
| Front Setback, Minimum | 25 feet |
| Secondary Front Setback, Minimum | 25 feet |
| Side Yard Setback, Minimum | 20 feet |
| Rear Setback, Minimum | 25 feet |
| Building Height, Maximum | 100 feet |

iii) Site Layout

a. Orient building entries, office areas, showrooms and/or lobbies, and amenities to front the primary public street.

b. On-site circulation shall have an adequate length of stacking for industrial facilities, e.g. loading docks, terminals, etc. that do not interfere with the movement of traffic (on- or off-site) and/or pedestrian areas.

c. Outdoor lighting shall follow the regulations provided in **Sec. 38-9. Outdoor Lighting**.

d. Provide on-site pedestrian walkways at a minimum six-foot clear width that are separate from drive aisles to connect to primary building entrances.

e. A public space such as an outdoor patio space, plaza, or courtyard shall be provided for any buildings greater than or equal to 75,000 square feet. For lots with more than one building, shared public spaces are permitted.

f. Sidewalk installation is required with any development located on the north side of Interstate 10.

g. Sidewalk installation is not required with any development located on the south side of Interstate 10.

iv) Parking

a. Accessible parking shall be provided according to Federal ADA parking standards.

b. Landscaped islands and medians shall be incorporated into parking areas to provide shade, define parking areas and pedestrian access, and allow for passive water harvesting. See **Sec. 36-2.D.3.h)vi) Landscaping** for requirements.

c. Surface runoff in parking lots shall be directed to landscaped passive water harvesting areas.

d. A minimum of 20 percent of parking spaces provided shall use previous materials such as previous concrete, previous asphalt, permeable pavers, compacted gravel or gravel. If gravel is used, a minimum of four-inch base course that is compacted to ensure stabilization of gravel is required.

e. Carports, including solar carport canopies, are allowed within surface parking lots, provided the materials are compatible with the building architecture.

f. Fleet vehicle parking and loading docks shall not be located along the site main frontage. The placement of such facilities shall be located in the rear half of the site, secondary front, or behind the principal structure.

g. Outdoor storage areas used for fleet vehicles shall be paved or use a similarly compacted material that is stable and does not produce dust.

h. Bike parking shall be located at the primary entrance of the primary building.

v) Architecture

a. Building Materials

i. Buildings shall be designed to incorporate contemporary architectural styles and materials to create the appearance of a state-of-the-art industrial park. Common elements such as architectural style, color, materials and ornamentation shall be used to create a cohesive park identity.

ii. Permitted materials include:

(a) Exterior plaster or stucco.

(b) Architectural metal; decorative panels, structural elements and decorative support or trim members.

(c) Precast concrete and tilt-up wall systems.

(d) Textured, patterned and/or integrally colored cast-in-place concrete.

(e) Integrally colored, precast CMU (concrete masonry units), provided that surfaces are molded, serrated or treated to give wall surfaces a three-dimensional texture.

(f) Brick.

(g) Natural stone.

(h) Glass curtain wall systems.

iii. Higher quality materials shall be utilized to draw attention to the office areas and entrances. Higher quality materials include architectural metal, decorative panels, structural elements and decorative support or trim members, brick and natural stone, among others.

iv. The use of reflective or shiny metallic roofs shall be prohibited.

b. Massing

i. Building heights, massing and setbacks shall be varied, to define the different functions within a building such as offices and warehousing.

ii. Primary buildings shall have clearly defined entries. To emphasize entries, one or a combination of the following elements shall be applied; portals, overhangs, fenestration, canopies, material and color changes. The "large box" components of the industrial buildings that are visible from a public right-of-way shall feature both vertical and horizontal articulation and be compatible with the more articulated office area.

iii. Metal structures are acceptable; however, they must visually tie to other building elements, such as the office, storage areas, etc.

iv. Temporary or portable buildings shall be limited in use for construction purposes only.

c. Screening

i. Exposed industrial systems and equipment shall be architecturally integrated or screened unless otherwise determined by the Community Development Director upon consultation with the Economic Development Director.

ii. All heavy industrial processing, assembling of materials shall be conducted within an enclosed structure or be screened according to **Sec. 36-2.D.3.h)vii) Walls, Fences, and Screening**.

vi) Landscaping

a. General Provisions

i. Landscaping Calculations and Definitions

For all developments within the Las Cruces Innovation and Industrial Park, the following formula shall be used to calculate the amount of landscape area is required:

Total Lot Area multiplied by the following percentages, not exclusive of building area:

**Figure 36-2-19. LCIIP Required Landscaping**

| Lot Size | Multiplier |
|---|---|
| 1.00 to 4.00 acres | 12% |
| 4.01 to 8.00 acres | 10% |
| 8.01 to 12.00 acres | 8% |
| >= 12.01 acres | 6% |

ii. One-fourth of the total area required to be landscaped shall be located within the front setback area of the property.

iii. Where the site exceeds one acre, only the portion of the site that includes the operational area where the primary building is situated and is being developed/disturbed shall be calculated. If the

area to be left undeveloped/undisturbed is disturbed during construction, replacement of vegetation is required.

iv. Passive water harvesting drainage swales shall be considered and installed when possible within landscape areas to capture runoff from impervious surfaces as illustrated in **Figure 36-2-20. Drainage Swales**.

v. Impervious areas shall be graded to drain into drainage swales. Drainage swales shall be designed as follows:

(a) Swale channel alignments and side slopes must be designed in close coordination with civil engineers to ensure that they convey stormwater while minimizing erosion damage.

(b) Swales shall capture at minimum the first flush of a storm event.

(c) Swale side slopes shall not exceed 4:1. Where adjacent to walkways or accessible hardscape areas they shall not exceed 6:1.

(d) Runoff that enters the swale in a sheet flow fashion requires that the edge of the swale be flush with grade. Where curbs are necessary, intermittently spaced curb cuts shall be installed to allow runoff to enter the swale. Curb cuts shall be at least 18 inches wide and spaced from three to 15 feet apart.

vi. For further guidance on design and installation of drainage swales in landscape areas, refer to the NMDOT National Pollutant Discharge Elimination System (NPDES) Manual.

b. Plant/Landscape Materials

i. The Las Cruces Airport Landscape Plan shall be used as a guide for acceptable plant materials.

ii. Living plant material shall be provided according to the following:

(a) A minimum of one live tree shall be provided for every 1,000 square feet of required landscaped area.

(b) A minimum of twenty live shrubs shall be provided for every 1,000 square feet of required landscaped area.

(c) One hundred square feet of ground-over or ten one-gallon size plants shall be provided for every 1,000 square feet of required landscaped area.

iii. Plant substitution is permitted following the City of Las Cruces Design Standards.

iv. Minimum plant material sizes at the time of installation shall be:

(a) Deciduous Canopy Trees and Deciduous Accent Trees—Two-inch Caliper.

(b) Evergreen Trees—Ten-foot Minimum height.

(c) Shrubs and groundcover—One gallon minimum.

v. Xeriscape or drought tolerant landscaping is required for all provided landscaping areas.

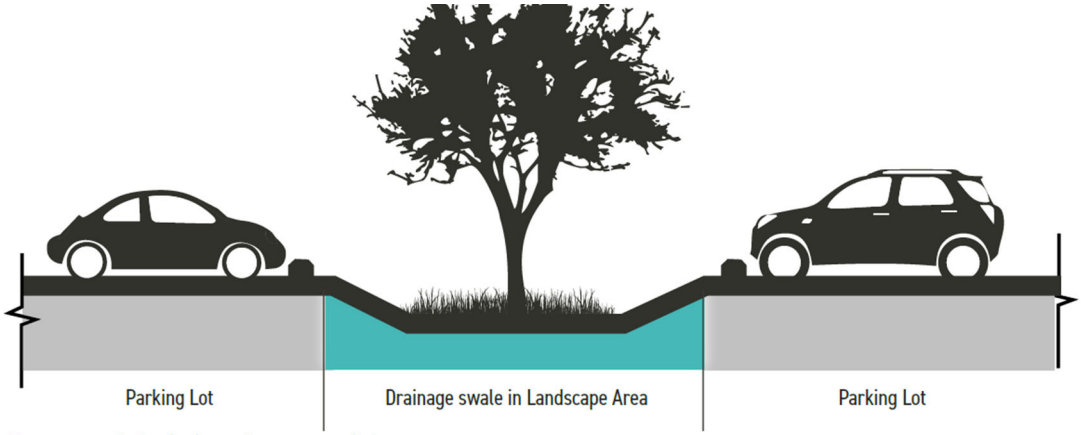
vi. Gravel, rock mulch or organic mulch, and similar mulch materials are acceptable within landscape areas. If gravel is used as ground cover, its use shall be limited to a maximum of 75 percent within landscape areas.

vii. Gravel, colored rock, and similar mulch materials shall not be permitted north of Interstate 10.

viii. All plant material shall be maintained by the owner in a living, attractive condition. All areas shall be free of weeds.

ix. If used, weed barriers shall be permeable to optimize stormwater infiltration and prevent runoff.

**Figure 36-2-20. Drainage Swales**




*Conceptual depiction of one possible stormwater harvesting feature in parking lot.*

c. Off-Street Parking Lots

i. Off-street parking lots shall have one tree for every ten parking spaces. Where covered carports are utilized, this requirement may be reduced or eliminate the tree requirement within parking lots through a determination of the Community Development Director. The Community Development Director shall consider the overall landscaping plan and the scale of the development to determine if covered carports shall either reduce or eliminate the tree requirement within parking lots.

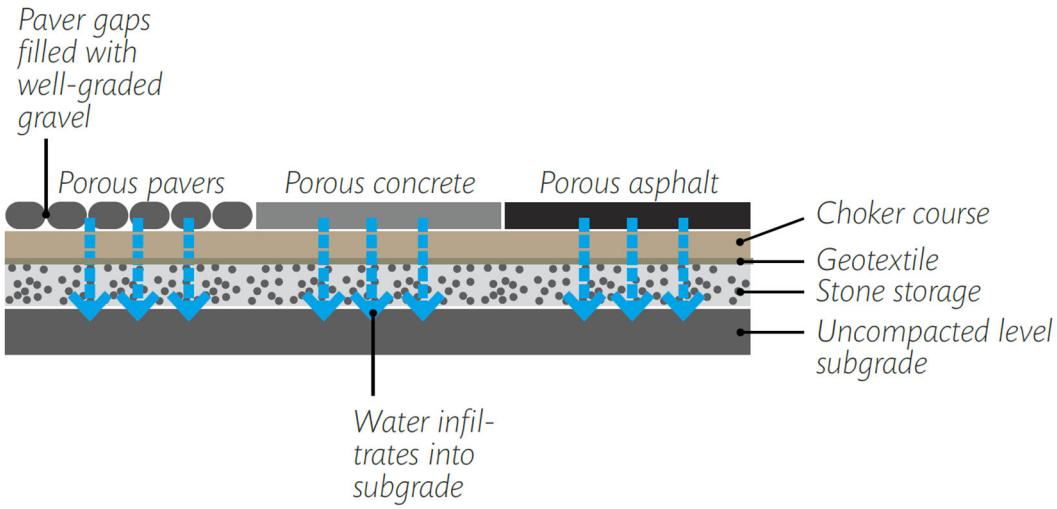
ii. The minimum size of tree planters within off-street parking lots shall be 60 square feet per tree.

iii. In parking lots of 100 spaces or more, the ends of parking aisles shall be defined as landscaped islands no narrower than eight feet in any dimension.

iv. Off-street parking lot landscaping standards do not apply to fleet vehicle parking areas.

v. Any landscaping provided to meet the off-street parking lot standards will be credited towards the overall site ten percent landscape requirement.

**Figure 36-2-21. Porous Surface with Typical Features**




vii) Walls, Fences, and Screening

a. The maximum allowed height for a fence depends on where the fence is located on a property. All fences and walls shall comply with the height limits established in **Figure 36-2-22. Maximum Wall Height** and illustrated in **Figure 36-2-23. Wall Height**.

**Figure 36-2-22. Maximum Wall Height**

| Location | *Maximum Height* |
|---|---|
| Within required primary front yard setback | 8' |
| Within secondary front yard setback | 10' |
| Within tertiary front yard setback | 10' |
| Within required side yard setback | 10' |
| Within required rear yard setback | 10' |
| Within the clear sight triangle at the intersections of streets and driveways | 3' |

**Figure 36-2-23. Wall Height**

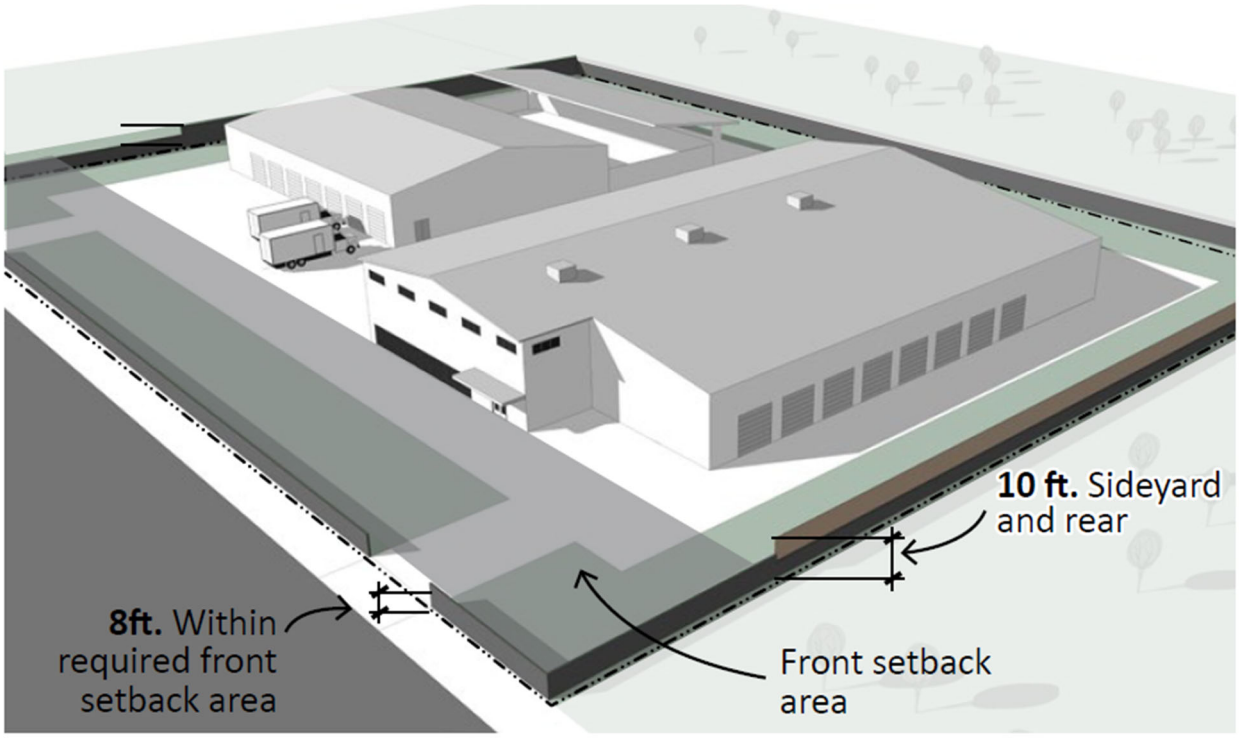
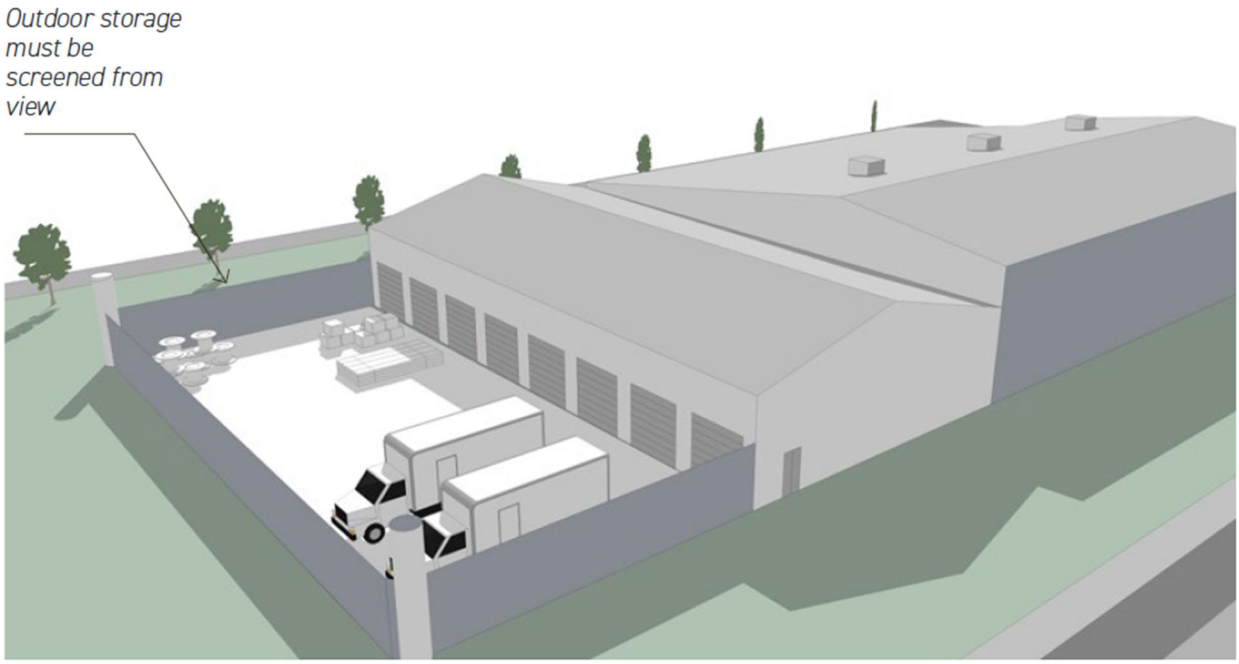



**Figure 36-2-24. View Fencing in the Front Setback Area**



**Figure 36-2-25. Storage Screening**




b. Within the required front setback area, the maximum allowable fence height is eight feet if two feet consists of view fencing. If opaque fencing is applied, the maximum height is six feet.

c. The finish of walls and fences shall be constructed of durable materials manufactured for exterior use and shall be weather and decay-resistant, which are compatible with the adjacent building(s) in regard to materials, detailing, and color. Acceptable materials include:

   i. Stucco over concrete masonry units (CMU).

   ii. Split face block.

   iii. Brick.

   iv. Stone.

   v. Curved interlock blocks.

   vi. Gabions.

   vii. Tubular steel, wrought iron bars, or other grill work.

d. Unfinished solid CMU or chain link are acceptable materials, except in areas visible from the public rights-of-way.

e. The use of razor ribbon (concertina), barbed wire, or cyclone fencing is prohibited.

f. Any required screening of mechanical equipment and support/services areas shall be accomplished by one of the following:

   i. An architectural building element, such as a wing wall, that screens the equipment or area being screened;

   ii. A wall or fence of a height equal to or greater than the height of the equipment or area being screened. Walls or fences shall incorporate at least one of the primary materials and colors of the nearest wall of the primary building; or

iii. A vegetative screen planted along the full length of the equipment or area to be screened of a height equal to or greater than the height of the equipment or area to be screened at the time of planting.

viii) Signage

a. All signs shall comply with **Sec. 38-10. Signs** except as outlined below.

b. All signs shall be designed in accordance with the Overlay Zone District's adopted signage plans and regulations.

c. At key locations such as intersections, joint tenant/monument signs shall include language in Spanish, Braille and larger print for sight-impaired populations.

d. Vehicular directional signage within public right-of-way or on City property shall be exempt from signage standards.

e. Freestanding Monument Signs.

i. Freestanding monument signs will be limited to a maximum of one per street frontage.

ii. The maximum signage size shall not exceed 450 square feet for lots adjacent to interstate frontage. The maximum signage size for all other lots shall not exceed 50 square feet.

iii. The maximum height shall not exceed 80 feet for lots adjacent to interstate frontage. The maximum height for all other lots shall not exceed 18 feet.

iv. Monument signs shall match the architectural style, color, materials and ornamentation of the primary building(s).

v. For all lots with more than one monument sign, all signs shall be of uniform design and materials.

vi. Free standing monument signage is permissive at the primary park entrances.

vii. The maximum height for directional signage is 6 feet.

f. Building Mounted Signs

i. Building mounted sign size shall not exceed ten percent of the building facade to which it is applied.

ii. Building mounted signs may not project more than 15 inches from the wall.

iii. Building mounted signs shall have contrasting colors from the background and text height and font that ensures readability, but must blend with the architectural style, color, materials and ornamentation of the main building(s).

iv. No building mounted sign shall intrude upon architectural features including windows, columns, or canopies or decorative features.

g. Temporary Signage

i. Temporary construction signs shall be permitted in accordance with the **Sec. 38-10. Signs**, with the following exceptions:

(a) For properties less than ten acres, one sign is permitted not to exceed 64 square feet in sign area and eight feet in height.

(b) For properties in excess of ten acres, one sign is permitted not to exceed 96 square feet in sign area and eight feet in height.

h. Prohibited Signage

i. The following sign types are prohibited within the Las Cruces Innovation and Industrial Park:

(a) Banners.

(b) Billboards.

(c) Portable or temporary signs, except for those permitted above.

(d) Window Signs.

i. Signage Illumination

i. Exterior and interior illumination will be allowed for both attached and freestanding signs, provided they comply with the following standards:

(a) Signs that are illuminated shall have concealed lighting fixtures. This provision applies also to neon tubing and fluorescent fixtures.

i) Definitions for the LCIIP, Las Cruces Industrial Innovation and Industrial Overlay Zone District

i) Accessory, Commercial/Office Uses

Any offices and commercial services and food, beverage uses listed in **Figure 36-2-17. LCIIP Use Table**. These uses must be incidental to the primary use.

ii) Accessory, Residential Use—Non-Primary

An accessory dwelling on a nonresidential premise, occupied by the person who oversees the nonresidential operation 24 hours a day.

iii) Cannabis Cultivation and Cannabis-Infused Products Manufacturing

A facility in which cannabis is grown, harvested, dried, cured, or trimmed. This use may also include the process in which a product is infused with cannabis that is intended for use or consumption other than by smoking including but not limited to, edible products, ointments, and tinctures.

iv) Commercial Services and General Retail

An establishment providing for the retail sale of general merchandise or food directly to the consumer; this includes, but is not limited to, sale of general merchandise, clothing and other apparel, flowers and household plants that are not grown on-site, dry goods, convenience and specialty foods, hardware and similar consumer goods, or other retail sales.

v) Construction Contractor Facility and Yard

A building and related outdoor area used to store and maintain construction equipment and materials including, but not limited to, plumbing, electrical, carpentry, roofing, and landscaping, and facilities customarily required in the building trade by a construction contractor. Any outside storage is required to be screened with an opaque fence.

vi) Contemporary Style Architecture

The use of innovative and new construction technologies and materials with a focus on steel, reinforced concrete, and glass, clean lines and a form that follows function.

vii) Drainage and Major Utility, Other

A facility regulated as a public utility or common carrier by the state or other relevant jurisdiction or agency, including, but not limited to, major telephone facilities, natural gas facilities, water treatment plants, water pump stations, sewage treatment plants, stormwater drainage facilities, irrigation facilities, or similar public services. Major facilities are those sized or designed to serve the entire park, or a wide area of the park.

viii) Film and Media Production

Outdoor or enclosed entertainment-related facilities including, without limitation, movie studios and production facilities, distribution facilities, editing facilities, catering facilities, printing facilities, postproduction facilities, set construction facilities, sound studios, special effects facilities and other entertainment-related production operations.

ix) Fire and Police Station

A public facility operated by a governmental agency where fire engines and other equipment are housed, and from which calls for emergency fire responses are handled. This use may include administrative offices, storage of equipment, temporary detention facilities, and the open or enclosed parking of patrol vehicles excluding, however, correctional institutions.

x) Fleet Vehicle

Any vehicle owned or operated by the person, company or business which is used for purposes of delivery, pick up or service to patrons of the primary use. A fleet vehicle may also be a commercial vehicle.

xi) Fleet Vehicle Parking

Parking of fleet vehicles.

xii) Freight House or Truck Terminal

Property or building used primarily for freight pick-up or distribution and the temporary parking of trucks of common or contract carriers during loading or unloading, including necessary warehouse space for storage of transitory freight. May also include intermodal distribution facilities for truck or shipping transport. Accessory uses may include, but are not limited to, a truck wash and loading and unloading from rail spurs.

xiii) General Agriculture

Any use of land for the purpose of production of crops and horticulture specialties, the raising of livestock and poultry, and the processing, packaging, storage and sale of agricultural products which are raised on the premises, and including all the types of structures normally associated with these uses, such as storage bins, barns, sheds, tool houses, greenhouses, garages, and any other use or facility ancillary to farming or open land. This use may also include the growing of plants for wholesale or retail sales, which may take place outside or in greenhouses. Outdoor sales of plants are allowed.

xiv) Heavy Manufacturing

Mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the manufacturing of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors. This use ordinarily creates a greater than average impact on the environment or has significant impacts on the use and enjoyment of other properties in terms of noise, smoke, fumes, odors, glare, or health or safety hazards. However, this use does not include processes that input or create hazardous byproducts, as defined by federal regulation, in the course of manufacturing, assembly, fabrication, or materials treatment, or that uses manufacturing, assembly, fabrication, or treatment processes that create potentially hazardous impacts including, but not limited to, explosions or leakage of nuclear or electromagnetic radiation into the environment or surrounding areas. These processes are covered under the special manufacturing zone.

xv) Higher Education, Vocational School

A private institution that provides full-time or part-time education beyond high school, including college, university and vocational schools that provides specialized training and education beyond the high school level.

xvi) Indoor Entertainment/Recreation Venues

A commercial indoor entertainment venue where food, nonalcoholic beverages or other refreshments may be obtained for consumption on the premises and where floor shows, bands or other forms of entertainment may be provided for customers. This use also includes health club or gyms, and non-medical service establishment intended to maintain or improve the physical condition of persons.

xvii) Light Manufacturing

Assembly, fabrication, or processing of goods and materials, primarily conducted within an enclosed building, which is designed, built and maintained so as to prevent smoke, noise, glare, dust, odors or other development impacts from being detected beyond the boundaries of the property. Assembly, fabrication, or processing may include compounding, processing, assembling, packaging or testing of goods. This use does not include any use that meets the definition of Heavy Manufacturing or Special Manufacturing.

xviii) Military and Law Enforcement Agency

A public facility operated by the federal government where engines and other equipment are housed. This use may also include administrative offices, storage of equipment, and grounds for training and practice.

xix) Natural Resource Extraction

On-site extraction of surface or subsurface mineral products or natural resources, including solids, such as coal and ores; liquids, such as crude petroleum; and gases, such as natural gases. Uses may include quarries, borrow pits, sand and gravel operation, mining, soil mining, rock crushing, screening, and the accessory storage of explosives

xx) Nightclub and Bar

An establishment that is devoted to the selling or serving of alcoholic beverages for consumption by patrons on the premises and in which the serving of food is only incidental to the consumption of those beverages, including taverns, nightclubs, cocktail lounges and cabarets.

xxi) Offices and Research Facility

A premise where professional, clerical, business management or public administration work is carried out and where the sale of merchandise on the premises is totally absent or a very limited activity in support of the work being carried on. This use may also include a medical or dental clinic for patients that are not lodged overnight and research and testing facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

xxii) Outdoor Entertainment

An outdoor commercial or entertainment activity that is open to the general public. This use may include outdoor markets, drive-in theater, stadium or other entertainment and recreation activities like batting cages, golf driving ranges, miniature golf courses, go-cart tracks, skating rinks, skateboard parks, swimming pools, tennis courts, or sports courts.

xxiii) Outdoor Storage

The keeping of any goods, material, or merchandise outside of a building in the same place.

xxiv) Parking Garage with/without Liner Building

A combination of structures for parking and a mix of uses (commercial, residential, office) where parking is designed to be concealed from view and levels of parking are at- grade, above grade, or partially below grade (but not fully underground). A liner building is a specialized building that may be built as part of the parking structure or separate; it is parallel to the street and designed to conceal a parking structure from the street with active ground floor uses such as retail shops or residential stoops. A parking garage may be designed without a liner building provided that it is designed in such a way so as to incorporate active ground floor uses, architectural features and articulated elements to mitigate blank walls and screen parking.

xxv) Recycling Sort Facilities and Electronic Recycling

A facility that sorts reusable materials in preparation for introduction into an industrial process by which the material is transformed into a new product in such a manner that the original identity as a product is lost. Material is limited to paper, plastic, and metal as well as electronics recycling.

xxvi) Small Animal Facilities

A facility that serves small animals for their care and treatment. This use may include outdoor pens for temporary animal holding. This use does not include animal raising.

xxvii) Solar Energy Generation

The use of land or buildings as locations for mounting of solar collectors or other devices that rely on sunshine as an energy source and are capable of collecting, distributing, or storing the sun's radiant energy.

xxviii) Special Manufacturing

Mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the manufacturing of products, and the blending of materials, such as lubricating oils, plastics, resins. This use ordinarily creates a greater than average impact on the environment or has significant impacts on the use and enjoyment of other properties in terms of noise, smoke, fumes, odors, glare, or health or safety hazards. This use includes processes that input or create hazardous by-products, as defined by federal regulation, in the course of manufacturing, assembly, fabrication, or materials treatment, or that uses manufacturing, assembly, fabrication, or treatment processes that create potentially hazardous impacts including but not limited to explosions or leakage of nuclear or electromagnetic radiation into the environment or surrounding areas.

xxix) Telecommunications, Towers, and Utilities

Any facility used for wireless communications, usually consisting of a support structure for antennas, equipment shelters or cabinets, and/or other transmission and reception devices used for business or commercial purposes.

xxx) Temporary, Construction Staging Area, Trailer, or Office

Temporary use of a structure, including a mobile office, as a construction site office by a building contractor while a specific project is under construction, or as a real estate office during the construction and initial marketing phase of a new development.

xxxi) Temporary, Seasonal Outdoor Sales, Events

Temporary outdoor or indoor retail display and sales of new or used goods, produce, and/or handcrafts or services associated with the season or a cultural event such as sales of fireworks, pumpkins, Christmas trees, or other seasonal items; semi-annual sales of art or handcrafted items in conjunction with community festivals or art shows; sidewalk or parking lot sales. Incidental sales of food and beverages is allowed.

xxxii) Vehicle Services

Commercial services dealing with vehicles. This use may include car wash, vehicle and equipment sales, rental, fueling, recreational vehicle parking stalls and hook-ups, and repair.

xxxiii) Warehousing, Logistics and Distribution

Building or premise in which goods, merchandise or equipment are stored and frequent heavy trucking activity may occur. Open storage of material, or nuisances such as dust, noise, and odors may be part of this use.

4. SMO, South Mesquite Overlay District

   a) Purpose

      The South Mesquite Overlay District is designed to positively address issues unique to Las Cruces' Original Townsite and surrounding area. This area is addressed in the 2005 adopted Mesquite Neighborhood Plan and the 2007 adopted Mesquite Historic District Neighborhood Design Plan. Specific provisions in this Ordinance deal with issues such as compatible design, parking, setbacks, and land use/zoning designations that are better suited to this older part of the city characterized by smaller lots with multiple dwellings and scarce off-street parking resources. Additionally, neighborhood design guidelines and standards have been created that will help enhance and preserve the unique character of Las Cruces' first neighborhood.

   b) Delineation of Overlay District Boundaries

      The South Mesquite Overlay (SMO) District shall include all properties located within the boundaries shown on **Figure 36-2-26**.

**Figure 36-2-26. South Mesquite Overlay Boundaries**

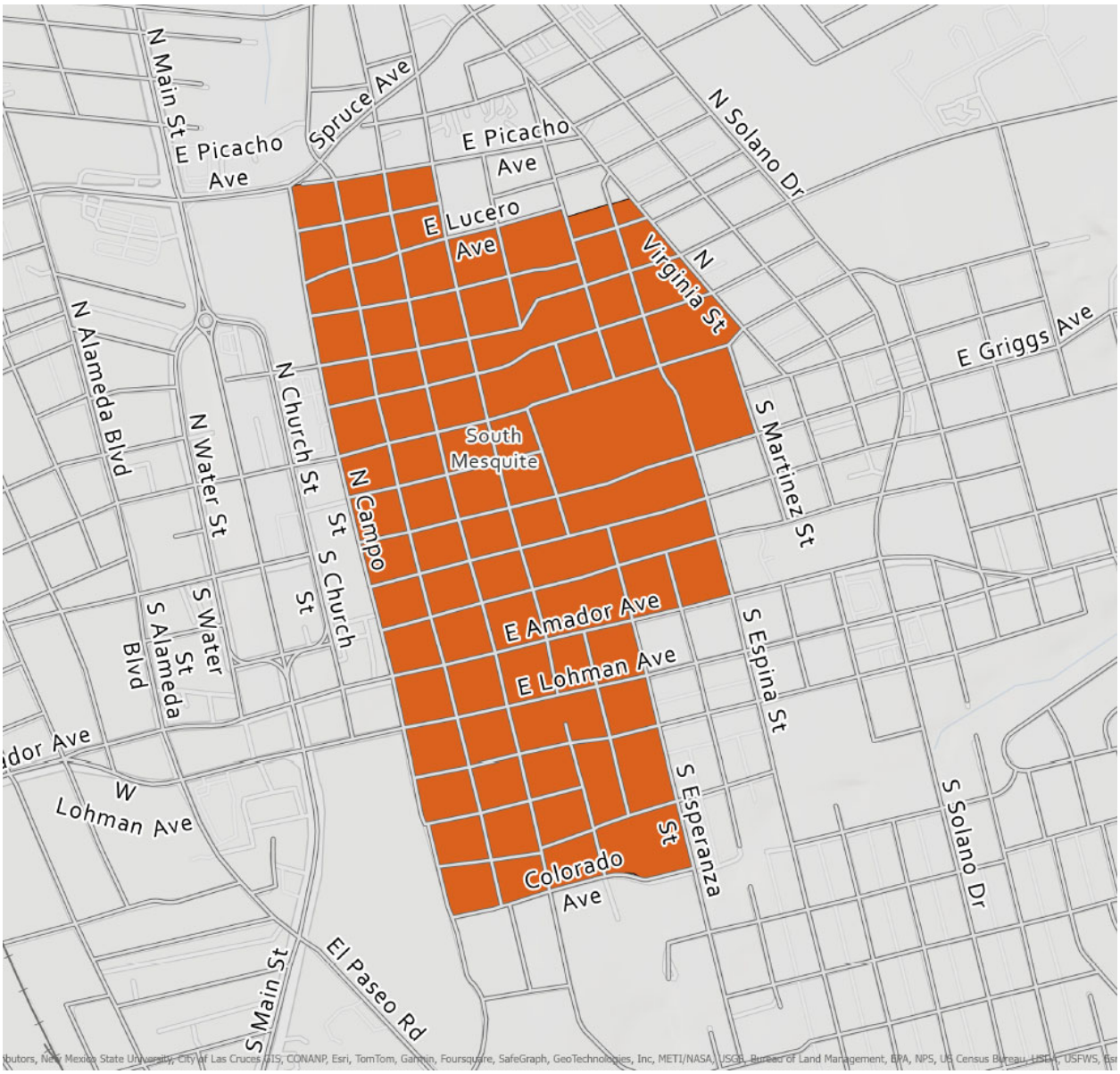


**Figure 36-2-27. Boundary of the Mesquite Street—Original Townsite State & Federal Historic Districts**



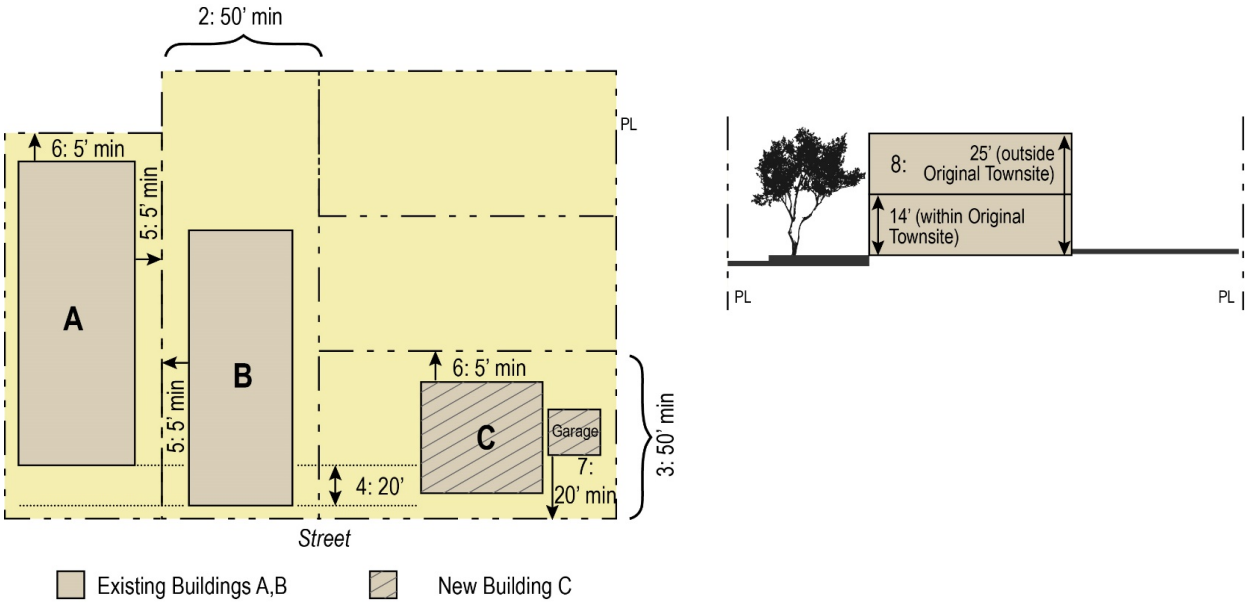
c) Development Standards

There shall be no development or alteration of the lands, uses, or structures within the SMO except as provided for by this Section, other sections of the Zoning Regulations, and other City Codes and Ordinances where applicable. Development requirements are established for the entire SMO, as follows (unless indicated in other sections of this Overlay):

**Figure 36-2-28. SMO Development Standards**

| | | |
|---|---|---|
| #1 | Lot Area/Size | 3,500 square feet minimum |
| #2 | Lot Width/Frontage | 50' minimum |
| #3 | Lot Depth | 50' minimum |
| #4 | Front Setback | Within the range of existing setbacks and compatible with the surrounding area* |
| #5 | Side Setback | 5' minimum** |
| #6 | Rear Setback | 5' minimum** |
| #7 | Garage Setback | 20' minimum |
| #8 | Building Height | 14' in the Original Townsite and 25' elsewhere*** |
| | Townhouses | Zero lot lines are permitted for townhouse development provided the structure meets the attachment requirements of **Sec. 36-4.B. Single-Family Home, Duplex, Triplex, or Quadplex, and Townhouse Residential Development**. |
| | Accessory Structures | There shall be no limit to the number or square footage of accessory structures |
| | Residential Density | Lot size, setbacks, parking requirements and building heights shall determine residential density per property. |

* Surrounding area generally mean all primary structures on the same side of the block. If there aren't at least two primary structures on the same side of the block, both sides of the block shall be used. The Applicant shall work with Community Development Department staff to determine a front setback distance with staff having the final determination.
** Overhangs are not permitted within required setbacks. Canales and viga ends are not deemed overhangs for the purpose of this limitation.
***Any requests for building heights greater than those stated above require an application for a height exception be reviewed and approved by the SMDRB; applications shall meet the design criteria noted in **Sec. 36-2.D.4.j). Design Guidelines**.
The regulations of this Overlay District shall supersede any regulations of the Zoning Regulations. However, when the regulations of this SMO do not address a particular design or development standard or regulation, the applicable local, state, or federal regulation shall apply. Numerical Flexible Development Standards may be granted by the Community Development Director or non-numerical Flexible Development Standards by the Development Review Committee within the SMO; however, such requests must also be approved by the SMDRB.



d) Landscape Requirements

Landscaping shall follow standards set forth in **Sec. 38-7. Landscaping** with the following modifications:

i) Applicability

Landscaping standards apply to all new development in the SMO with the exception of single family dwellings and duplexes, unless noted elsewhere in this section.

ii) A variety of landscaping materials shall be employed to create visual interest and complement other plantings in the neighborhood. Care should be taken when planting too close to adobe structures, which can be damaged by plant watering. Plant materials, including shade trees, shall be native and/or draught tolerant, as these are best suited to the Chihuahua Desert. This is not to say that the landscape plan needs to adhere to Xeriscaping. On the contrary, plants should be chosen that will survive and thrive in the local climate. Appropriate species include, but are not limited to, the following:

**Figure 36-2-29. Permitted Plant Types**

| TREES | SHRUBS | GROUNDCOVER |
|---|---|---|
| Arizona Ash<br>Arizona Cypress<br>Arizona Mesquite<br>Canyon Hackberry<br>Chinese Pistache<br>Desert Willow<br>Italian Cypress<br>Lacebark Elm<br>Palo Verde<br>Pecan<br>Pines<br>Southern Live Oak<br>Texas Honey Mesquite<br>Texas Red Oak<br>Sycamore<br>Western Hackberry | Euonymus<br>Pyracantha<br>Sages (Texas, Desert Chihuahuan, Cherry, Russian, etc.)<br>Silverberry<br>Spanish Broom | Bermuda<br>TIFF, various<br>Vinca<br>Trailing Rosemary<br>Iceplant<br>Creeping Thyme<br>Powis Castle Artemesia<br>Dalea capitata<br>Clover Fern |

iii) All new development, except single-family dwellings and duplexes, and adaptive reuse of properties (such as a change of use) shall be required to plant trees within parking lots for shade and visual relief (see subsection 5 below).

iv) Landscaping gravel, decorative stone or other organic landscaping materials may be used for landscaping, provided such materials blend visually with other landscaping material and planting style standards and meet the City's wind erosion control ordinance).

v) Landscaping for Parking Lots: All new construction, except single-family dwellings and duplexes and adaptive reuse of properties, shall require landscaped parking areas. Landscaping in parking areas shall follow **Sec. 38-7. Landscaping**, **Sec. 38-7.D.5. Parking Lot Landscaping**, with the following modifications:

a. Trees in parking lots shall be located in an island or planter in which the tree trunks shall be protected from motor vehicles. Islands shall be a minimum of six feet wide, have a minimum area of thirty-six (36) square feet and a raised border of at least four (4) inches in height.

b. One tree shall be planted for every five (5) parking spaces within parking lots as they pertain to the uses listed for each area.

vi) The HPC shall have the authority to modify or waive landscaping requirements of **Sec. 38-7. Landscaping** or this Section if the HPC determines that such modification would result in a project that better advances the purposes of the SMO and positively addresses it design standards.

vii) Community Development Department staff shall review landscape plans.

e) Permitted Uses

There shall be no land uses within this Overlay District except as identified in **Figure 36-2-30. SMO Permitted Use Chart**. Zoning districts are as follows:

i) R-la: Single-family Low Density Residential District

ii) R-2: Medium Density Residential District

iii) R-3: High Density Residential District

iv) R-4: High Density Residential and Limited Office District

v) O-1: Neighborhood Office District

vi) O-2: Professional Office with Limited Retail Service

vii) C-1: Neighborhood Commercial District

viii) C-2: General Commercial District

ix) C-3: High Density Commercial. C-3 zoning and land uses are not permitted in the Overlay District with the exception of those uses which existed at the time of SMO adoption, Ordinance 2200, May 24, 2005. Uses that were pre-existing at the time of adoption and are no longer permitted by right shall be considered non-conforming and shall follow the provisions of **Sec. 36-2.D.4.f). Nonconforming Uses, Structures, and Property** below and **Sec. 36-5.G. Nonconformities**.

x) PUD: Planned Unit Developments are allowed as part of a specific rezoning.

**Figure 36-2-30. SMO Permitted Use Chart**

Legend:

A= Allowed-by-right;

C=Conditional Use with the conditions noted; and

S= Special Use Permit with public meeting required.

| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
|---|---|---|---|---|---|---|---|---|---|
| Accessory dwelling units | A | A | A | A | A | A | A | A | |
| Apartments | | A | A | A | A | A | A | A | |
| Assisted Living, Retirement home | | A | A | A | A | A | A | A | |
| Detached single-family dwelling | A | A | A | C | C | C | C | C | C: residential densities in R-4 and commercial zones limited to a maximum of 40 DU/acre. |
| Guest dwelling unit | C | C | C | C | C | C | C | C | C: see **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #19 Accessory Dwelling |
| Duplex | | A | A | A | C | C | C | C | C: residential densities in R-4 and commercial zones limited to a maximum of 40 DU/acre. |
| Triplex | | A | A | A | A | A | A | A | |
| Quadplex | | A | A | A | A | A | A | A | |
| Home for the Elderly | A | A | A | A | A | A | A | A | |
| Home for the Disabled | C | C | C | A | A | A | A | A | C: 10 or fewer persons allowed |
| Hostel | | | | C | C | C | C | C | C: limited to 10 persons per establishment and a maximum stay of 14 continuous days per guest. |
| Nursing Home | C | C | C | A | A | A | A | A | C: 10 or fewer persons allowed |
| Halfway house | S | S | S | S | S | S | S | S | See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #18 Sober Living House |

| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
|---|---|---|---|---|---|---|---|---|---|
| Fraternity/sorority house | | | C | C | C | C | C | C | C: Limited to 10 persons per establishment; |
| Temporary/homeless shelter | S | S | S | S | S | S | S | S | |
| Manufactured home | A | A | A | C | C | C | C | C | All manufactured homes shall meet the design standards of the SMO and skirting and exterior wall materials shall be consistent with the architecture of adjacent structures. Residential densities in R-4 and commercial zones are limited to a maximum of 40 DU/acre. |
| Townhouse [one room attached to the neighboring single-family dwelling] | | A | A | A | A | A | A | A | |
| Patio home [100% built to side property line] | C | C | C | C | C | C | C | C | C: see **Sec. 36-4.B. Single-Family Home, Duplex, Triplex, or Quadplex, and Townhouse Residential Development**. |
| Accessory uses and structures | A | A | A | A | A | A | A | A | |
| Bed & Breakfast Establishment | C | C | C | C | C | C | C | C | C: Number of guest rooms is limited to 8. |
| Greenhouse, private (non-commercial) | A | A | A | A | A | A | A | A | |
| Community Gardens (neighborhood based) | A | A | A | A | A | A | A | A | |
| Home occupations | C | C | C | C | C | C | C | C | C: See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #23 Home Occupation |
| Kennel/cattery, private residential | C | C | C | C | C | C | C | C | C: Permitted in accordance with Chapter 7 of the LCMC; noise from barking dogs and odors from this activity shall not be discerned off the premises. |
| Recreational court, tennis, etc., private | S | S | S | S | S | S | S | S | Must mitigate off-site noise and light glare. |
| Storage of RVs and motor vehicle appurtenances | C | C | C | C | C | C | C | C | C: Maximum 1 per parcel located within any open area between the front setback and the rear setback and shall otherwise meet the standards of **Sec. 38-2.N.6.g) Parking and Storage of Large Motor Vehicles** |
| Swimming pool, private | C | C | C | C | C | C | C | C | C: A swimming pool shall be at least 5 feet from property lines; also see **Sec. 38-8.F.1. Swimming Pools, Whirlpools, Hot Tubs, and Other Similar Structures**. |
| Temporary uses | C | C | C | C | C | C | C | C | C: See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #35 Seasonal/Temporary Sales or Use |
| Produce stands | C | C | C | C | C | C | C | C | C: Allowed per State law; may be accessory to community gardens. |
| Veterinary facility | | | | | | | | C | C: Noise from barking dogs shall not be discerned off the premises. |
| Cemetery/columbarium | S | C | C | C | C | C | C | C | C/S: See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #43 Cemetery or Columbarium |
| Family child care home (up to 6 children) | A | A | A | A | A | A | A | A | See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #37 Child Care Home (≤6). |
| Group child care home (7 to 12 children) | S | A | A | A | A | A | A | A | S: See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #38 Group Child Care Home (7-12) |
| Child care center or preschool | | S | S | S | S | S | S | S | S: See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #36 Child Care Center. |

| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
|---|---|---|---|---|---|---|---|---|---|
| Community buildings/uses | C | C | C | C | A | A | A | A | C: Shall be located on a major local or higher classification road. |
| Convention center/exhibition hall | | | | | C | C | C | C | C: Must be accessed from an arterial road (Lohman, Amador); size is limited to 5,000 GFA. |
| Library/museum | | A | A | A | A | A | A | A | |
| Religious institutions | C | C | C | C | C | C | C | C | C: Shall be located on a major local or higher classification road; all sites shall have a minimum 1 acre; structures or parking located within 25 feet of a residential use shall provide an opaque buffer consisting of landscaping and walls or fences. Dumpsters or other garbage collection facilities shall not be located within 25 feet of a residential use. |
| School, college, trade school, private or public | S | S | S | S | S | S | S | S | S: On a case-by-case basis, application shall address safe access, off-street parking demand, screening and landscaping, noise and other relevant impacts of the development on adjacent residential uses. Structures or parking located within 25 feet of a dwelling unit shall provide a Type A opaque buffer consisting of landscaping and walls or fences. Dumpsters or other garbage collection facilities shall not be located within 25 feet of property used for residential purposes. |
| Arcade, game room | | | | | | | A | A | |
| Batting cage, indoor | | | | | | | A | A | |
| Billiard, Pool Hall | | | | | | | A | A | |
| Bowling alley | | | | | | | A | A | |
| Miniature golf course | | | | | | | | A | |
| Health/exercise club/gymnasium/sports instruction | | | | C | C | C | C | C | C: Noise from this activity shall not be discerned off-premises. |
| Park | C | C | C | C | C | C | C | C | C: Limited to neighborhood park or private park. See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #52 Public Park. Public parks shall also comply with Chapter 20 of the LCMC. |
| Mini-race tracks (e.g., go carts) | | | | | | | | C | C: Hours of operation limited to between 10 a.m. and 10 p.m. |
| Recreation courts, public | | | S | S | S | S | S | S | S: Must mitigate off-site noise and light glare. |
| Skating rink, Indoor | | | | A | A | A | A | A | |
| Swimming pool, commercial or public; indoor only | | | | | S | S | S | S | |
| Botanical garden | | | | A | A | A | A | A | |
| Personal or business service office uses | | C | C | C | A | A | A | A | C: In R districts, non-residential uses are permitted only on the ground floor; no more than 35% of the GFA of the buildings on the parcel, combined, is permitted to be non-residential uses. |
| Art studio | | C | C | C | C | C | C | C | C: Noise from activities shall not be discerned off the premises. |
| Barber/beauty/hair salon and related personal care services | | A | A | A | A | A | A | A | |
| Medical/dental office; counselor/therapy services | | A | A | A | A | A | A | A | |
| Bank, bonding, and financial | | | | | | C | C | C | C: Each business establishment is limited to a sole practitioner and only one such business establishment per parcel. |

| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
|---|---|---|---|---|---|---|---|---|---|
| institution/facility; no drive-through | | | | | | | | | |
| Business office: consulting; credit reporting & collection; desktop publishing, graphic design; institutional office, public or private; educational office; religious office; philanthropic office; mailing & stenographic services; motion picture production; noncommercial research organization | | | | | A | A | A | A | |
| Adult day care services/facility | | | | | A | A | A | A | |
| Funeral home; laboratory | | | | | A | A | A | A | |
| Pharmacy; no drive-through | | | | | | C | C | C | C: Permitted only as accessory to a medical, dental or similar office use and strictly for the purpose of serving the patients of the medical office use. |
| Auto/truck parts store | | | | | | | | A | |
| Auto/truck repair & service | | | | | | | | C | C: No salvage yard or related activities shall be permitted. No outside storage of parts, materials, or equipment is permitted. All outdoor storage of non-operable vehicles must be screened with opaque fencing. |
| Auto/truck self-service/automated or full service wash/wax/detailing | | | | | | | | C | C: Limited to a collector or higher classification road. |
| Bar/pub/tavern (no dancing) | | | | | | | | A | |
| Sale of building material | | | | | | | | A | |
| Café, cafeteria, coffee shop, restaurant, etc. No drive-thru | | | | A | A | A | A | A | |
| Cannabis dispensary | | | | | | | | A | See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #107 Cannabis Dispensary. |
| Cannabis indoor agriculture | | | | | | | A | A | See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #108 Cannabis Production. |
| Cannabis microbusiness | | | | | | | A | A | See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #109 Integrated Cannabis Business. |
| Sale of carpet/window treatments | | | | | | | C | C | |
| Cleaning & maid services | | | | | | | A | A | |
| Clothing store | | | | | | | | C | |
| Convenience store (no gas sales) | | | S | S | S | S | S | S | C: No drive-through facility. |
| Delicatessen, produce/meat market; No eating facilities | | | | A | A | A | A | A | |
| Delicatessen, produce/meat market with eating facilities | | | | | | | C | C | C: No drive-through facility. |
| Firewood sales | | | | | | | | C | C: If displayed outside a building, a semi-opaque screen around the perimeter of the use shall be |

| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | provided; 20 cord maximum stored on site; see **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #35 Seasonal/Temporary Sales or Use. |
| Furniture store | | | | | | | | A | |
| Sale of garden supplies | | | | | | | | A | |
| Grocery store | | | | | | | A | A | |
| Hardware store | | | | | | | C | A | C: No outside storage of supplies or materials. |
| Home furnishings | | | | | | | A | A | |
| Kennel/cattery, commercial or non-profit | | | | | | | | C | C: Use allowed in accordance with Chapter 7 of the LCMC; noise from barking dogs shall not be discerned at the nearest dwelling unit. |
| Laundry/dry cleaning services | | | | | | | A | A | |
| Newspaper distribution | | | | | | | | A | |
| Pawn shop | | | | | | | | A | |
| Petroleum/propane sales | | | | | | | | C | C: Sale of portable propane tanks and similar gas only is allowed as an accessory use to a retail establishment; use of such equipment is allowed as an accessory use when meeting current Fire Code standards. Gas stations are not permitted. |
| Plant nursery | | | | | | | | A | |
| Private club or lodge | C | C | C | C | C | C | C | C | C: See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #90 Private Club or Lodge. A private club or lodge shall be located on a major local or higher designated street. Structures or parking located within 25 feet of a dwelling unit shall provide a Type A opaque buffer consisting of landscaping and walls or fences. Dumpsters or other garbage collection facilities shall not be located within 25 feet of property used for residential purposes. |
| Radio/TV station | | | | | | | | A | |
| Seasonal sales of fireworks, agricultural products (non-temporary), snowcone stand, etc. | | | | | | | C | C | C: All structure locations shall meet setback requirements; if sited on property with other uses, there shall be no obstruction of the driving aisles or parking stalls unless it can be proven that there is an excess of parking areas. If the use does not follow temporary use provisions, the property shall be subject to all applicable development requirements. |
| Small item repair shop | | | | | | | A | A | |
| Specialty foods store (bakeries, candies, etc.) | | | | | | | A | A | |
| Specialty store (books, music, toys, sports equip, stationary, etc.) | | | | | | | A | A | |
| Telephone communication business (call center) | | | | | | | | A | |
| Temporary Use (non-seasonal) | | | | C | C | C | C | C | C: See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #35 Seasonal/Temporary Sales or Use. |
| Theater (non-drive in) | | | | | | | | A | |
| Tire sales/repair | | | | | | | | A | |
| Upholstery shop | | | | | | | A | A | |
| Variety store | | | | | | | A | A | |

| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
|---|---|---|---|---|---|---|---|---|---|
| Video/DVD rental/sales (non-adult oriented) | | | | | | | A | A | |
| Cab stand | | | | | | | | A | |
| Distribution centers | | | | | | | | A | |
| Parking facilities, commercial (garages & parking lots) | S | S | S | S | S | S | S | S | |
| Storage outside of buildings of materials, equipment, and supplies not for sale | | | | | | | | C | C: All outside storage shall be enclosed with an opaque, Type A screen. |
| Storage, warehousing accessory to office, retail trade, service, or industry businesses | | | | | | | | C | C: Maximum of 95% of the total square footage may be used for this storage. |
| Storage/display of merchandise for sale (except manufactured buildings, manufactured homes, mobile homes & operable cars, trucks, motorcycles, and RVs) | | | | | C | C | C | C | C: Outdoor display of goods sold on the premises is limited to 25% of the gross floor area devoted to the business use. |
| Wholesale trade, any product | | | | | | | | C | C: No outdoor storage allowed. |
| Construction yard or buildings, temporary | C | C | C | C | C | C | C | C | C: See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #31 Construction Building (Temporary) and 32 Construction Yard (Temporary): Such yard or building(s), including a mobile home or recreational vehicle for a temporary residence or construction office, or any other facilities or arrangement approved by the Community Development Director shall be removed upon completion of construction and in compliance with the Chapter 30 of the Municipal Code. Construction yards and buildings or any other facilities shall be maintained in a neat and orderly fashion. Open yards shall be enclosed by a fence at least five (5) feet in height. |
| Contractor's Yard | | | | | | | | C | C: All outdoor storage shall be enclosed with an opaque Type A screen |
| Cottage Industry with retail sales or service (manufacture or processing of goods such as beer or food products for sale on the premises) | | | | | | | C | C | C: Allowed only when such use occurs within a totally enclosed building where the primary use (retail/service) is conducted. The processing of goods shall be clearly secondary to the primary use, shall be sold on-site only, and shall not pose any significant adverse impact on adjacent properties due to noise, odor, dust, or vibration. A maximum of 49% of the total business floor area, not to exceed 3,000 square feet, may be used in the conduct of the cottage industry manufacturing or processing. |
| Crematorium | | | | | | | | C | C: See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #95 Crematorium. |
| Antennas, towers, communication structures, and other utility vertical structures | | | | | | | S | S | See **Sec. 38-11. Wireless Communication Facilities**. |
| Facial mounted antennae (attached to the primary use) | | | | | | | C | C | C: Facial mounts must be placed or erected to the primary use/structure in a manner that conceals, to the extent possible, the antenna or face mount. No more than ten (10) additional feet in height to the maximum building height shall be allowed as a result of application or erection of the antenna or |

| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | face mount. **Sec. 38-11. Wireless Communication Facilities**. |
| Private/public utility (e.g., substations, water wells, transformers, regulators, lift stations, telecommunications site) | S | S | S | S | S | S | S | S | See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #53 Public Utilities (Major). A solid wall or fence shall surround the installation. Landscaping as per Sec. 36-2.D.4.d). Landscape Requirements shall be provided to screen and/or buffer the installation as necessary to allow the use to blend with the surrounding properties and minimize noise and visual pollution. |
| Recycling collection centers (neighborhood scale only) | | | | S | S | S | S | S | Hours of operation may be limited to mitigate noise to adjacent residences; equipment rooms and outdoor storage of materials shall be screened with opaque fencing; trash shall be contained and properly disposed of; the DRB and Planning and Zoning Commission may impose conditions to insure that noise, fumes, odors and congestion is avoided. |
| Private "Ham" radio telecommunication antennae | C | C | C | C | C | C | C | C | C: Antennae shall not exceed the building height limit. |

f) Nonconforming Uses, Structures, and Property

i) Many people refer to nonconforming uses as the "Grandfather Clause." If a use, structure, etc., was established legally under the previous code, it is considered a legal nonconforming use or nonconforming or non-complying structure. Except for the following, requirements stated in **Sec. 36-5.G. Nonconformities** shall apply.

ii) If a legal non-conforming use becomes and remains vacant, a two (2) year time limit shall be placed on reestablishing the non-conforming use at that location.

g) Parking Requirements

The following exceptions to the parking requirements found in **Sec. 36-3.A.1. Permitted Use Chart** shall be used in the SMO:

i) Buildings within the SMO constructed prior to 1955 shall not be required to provide off-street parking.

ii) Buildings within the SMO constructed after 1955 shall be required to provide off-street parking pursuant to the requirements of **Sec. 36-3.A.1. Permitted Use Chart**. These buildings and properties shall be eligible to use:

a. The Urban Character Area parking exceptions found in **Sec. 38-2.N.4. Minimum Off-Street Vehicular Parking Requirements**; and/or

b. Surface materials for parking areas for residential or non-residential developments may be pervious materials such as stone or brick pavers or compacted crushed stone (gravel). If gravel is used, single-family and duplex parking areas may use compacted crusher fine or "pea" gravel, but multi-family and non-residential development parking areas shall be limited to using a minimum one-inch diameter size, compacted gravel. Concrete parking pads are not permitted to be installed abutting adobe walls to avoid damage due to "wicking" (transfer of moisture trapped beneath the concrete to the adobe wall).

iii) Parking areas for new development of non-residential and multi-family uses, including garages and carports, are not permitted in the required front setback of the subject property.

iv) The HPC shall have the authority to modify or waive off-street requirements, with the concurrence of the City's Traffic Engineer, if the HPC determines that such modification would result in a project that better advances the purposes of the SMO and positively addresses its design standards.

h) Signage

All signage shall be of materials and design that are compatible with the architecture of the structure and the residential character of the neighborhood. Electronic moving/digital signs are not permitted in the SMO. Sign permit applications shall be submitted for approval to the Community Development Department in accordance with **Sec. 38-10. Signs** with the following modifications:

i) Freestanding Signs

a. Ground signs are allowed and shall be no greater than five feet in height. Only one ground sign per commercial property shall be permitted. Ground signs must be set back at least five feet from any property line and must be at least five feet away from the wall of the building.

b. Ground signs shall be no greater than two square feet in overall size.

c. Ground signs may be illuminated and shall follow regulations stated in **Sec. 38-10.I.3. Sign Lighting**.

d. Temporary Ground Signs are permitted in accordance with **Sec. 38-10.G.13**.

e. Pole signs are allowed only on Lohman and Amador Avenues and shall follow the standards of **Sec. 38-10. Signs**.

ii) Attached Signs

Attached signs shall follow size and placement regulations for attached signage in **Sec. 38-10. Signs**.

iii) Portable A-Frame Signs

An A-frame sign means a self-supporting, portable sign with one or two faces that are adjoined at the top and displayed at an angle, which is designed to be placed where pedestrians walk or gather and ADA accessibility is assured. The sign shall not be permanently anchored or secured and shall be removed at the end of the establishment's business hours.

a. All agents, employees, or representatives displaying an A-frame sign on public property in the DDC shall comply with the following provisions:

i. One A-frame sign per business may be displayed during regular business hours;

ii. A-frame signs shall be no greater than 6 square feet on one side, no more than 12 square feet total, and shall be no greater than 3 1/2 feet in height;

iii. An A-frame sign shall be installed and removed by the business or property owner;

iv. No A-frame sign shall be erected in such a manner so as to obstruct ADA access or vehicular traffic;

v. A-frame signs shall only be displayed immediately in front of the business;

vi. No A-frame sign may be located on public property such as sidewalks or parkways;

vii. The business or property owner shall be responsible for any damage caused to public property by the sign;

viii. The business or property owner assumes all risks with setting up an A-frame sign and shall not hold the City responsible for any accidents or loss in the installation, removal, or operation of the sign.

iv) Inflatable Signs or Pennants

Temporary inflatable pennants, streamers and other fluttering devices shall be permitted for a special event lasting up to 14 days per event and only four such events shall be allowed per parcel per calendar year.

v) Prohibited Signs

The following signs are prohibited:

a. Variable electronic message display boards, whether temporary or permanent.

b. Permanent banners.

c. Pennants, streamers, and other fluttering devices exceeding the time limits of temporary uses noted above.

d. Temporary Ground Signs (e.g., real estate, political, construction, contractor and "coming soon" signs) over 12 square feet in area or over five feet tall.

e. All other signs as prohibited in **Sec. 38-10.D. Prohibited Signs**.

vi) Existing legally permitted signs shall be considered legally non-conforming and shall be regulated in accordance with **Sec. 38-10.L. Nonconforming Signs**.

i) Duties of the Historic Preservation Committee (HPC)

To ensure quality property development and renovation and to protect the historic character of the neighborhood, the design review duties are assigned to the Historic Preservation Committee. In accordance with **Sec. 35-2.B. Duties and Responsibilities of the Historic Preservation Committee**, the HPC shall evaluate and determine the exterior design appropriateness of proposals for new construction, additions, exterior alterations, and rehabilitation of properties within the South Mesquite Overlay.

i) The Historic Preservation Committee is established in **Sec. 35-2. Historic Preservation Committee**.

ii) Duties of the HPC relevant to the South Mesquite Overlay (SMO).

a. The HPC shall review the following permit applications for properties lying within the SMO and shall have final authority on these permits relative to exterior design criteria for:

i. Any new primary structure(s);

ii. Manufactured homes for compliance with SMO design standards, with limitations pursuant to State statute;

iii. Any new accessory structure in excess of 120 square feet;

iv. The conversion of an accessory structure to a primary structure such as a garage or shed to a casita;

v. Additions to an existing primary structure that was constructed 50 years prior to the current building permit application, whether or not it is listed as Contributing on the State or National Mesquite Street-Original Townsite Historic District Inventory. The Applicant shall provide evidence of the year built;

vi. Additions to accessory structures in excess of 120 square feet (one time or cumulative);

vii. Window or door replacement on street-facing facades;

viii. Any alterations to the street facade of the primary structure or any alternations to an accessory structure over 120 square feet in size; and

ix. Any alterations, replacement, or changes to the roof resulting in an alteration of the style of roof of a primary structure or accessory structure over 120 square feet in size.

b. The HPC shall establish criteria for issuance of Certificates of Appropriateness (CoA) which shall reflect the purposes of the design guidelines, standards, and criteria of this Section. These criteria shall be attached to the permit application for Applicants to review prior to submittal.

c. The HPC shall review and make recommendations to the Planning and Zoning Commission for the following:

i. Planned Unit Developments (Error! **Reference source not found.**s) (**Sec. 36-5.D**)

ii. Zoning Variances (**Sec. 36-5.F**)

iii. Special Use Permits (Error! **Reference source not found.**s) (**Sec. 36-5.C**)

iv. Zoning Map Amendments (**Sec. 36-5.A**)

Land Use: It is possible to request an additional land use for a specific parcel that is not already noted within the permitted use list within the SMO. Each request will be considered on a case-by-case basis and shall be deemed compatible with neighboring land uses and shall satisfy the purposes of the SMO. The HPC shall be a recommending body to the Planning and Zoning Commission. Final action on this additional land use request shall be made by the Planning and Zoning Commission unless appealed to the City Council.

d. Cases not listed above shall also go before the HPC if design issues related to the historic integrity of the neighborhood are involved or at the discretion of the Department Director.

e. State- or nationally-funded projects requiring review by the State Historic Preservation Officer (SHPO) are exempt from review by the HPC. In New Mexico, "State-funded" includes funding by municipalities.

iii) Decisions of the HPC

a. Members of the HPC shall state the factual basis and the findings of their vote. Findings shall be based on Design Standards found herein, information from staff reports and staff presentations, public comment, and one or more of the following:

i. References to the Zoning Regulations or other applicable codes;

ii. Design Guidelines for the South Mesquite District;

iii. The Secretary of Interior Standards for Rehabilitation;

iv. The New Mexico Historic Cultural Properties Inventory Manual; and

v. Projects other than those requiring approval by the HPC shall be reviewed for compliance with design standards by Community Development staff and are required to meet all other applicable City Codes.

b. Decision of Approval

If the HPC approves an application, it shall articulate the conditions (if any) to the approval and instruct staff to issue a Certificate of Appropriateness (i.e., action form). A copy of the Certificate shall be placed in the case file and a copy shall be provided to the Applicant and to the permitting and inspections sections.

c. Decision of Denial

If the HPC denies an application, the Notice of Decision shall identify the design standards or other requirements of this **Sec. 36-2.D.4. SMO, South Mesquite Overlay District** that the proposed work conflicts with and shall also explain the Applicant's right to appeal the denial to City Council (as per **Sec. 36-2.D.4.o) Appeals** below). A copy of the Notice of Decision shall be placed in the case file and a copy shall be provided to the Applicant.

iv) Issuance of Certificates of Occupancy or Completion

Staff having prepared the Certificate of Appropriateness (CoA) shall review the final completion of the project for consistency with CoA prior to the issuance of the Certificate of Occupancy or Completion for the project.

j) Design Guidelines

Specific design guidelines, standards, and criteria shall be used by staff and the HPC to determine the appropriateness of construction and rehabilitation projects, and to determine whether the request is consistent or inconsistent with existing development.

i) Applicable development must ultimately utilize architectural styles, methods, and materials that are visually compatible with the original structure, surrounding structures (especially where new construction is proposed), and the overall character of the historic district. This should not be interpreted as a

requirement to mimic existing styles or construction materials, but as a means for these types of projects to result in a visually compatible transition between old and new structures within the general neighborhood and/or on a single parcel of land.

ii) When evaluating proposals for new development, additions, or rehabilitation in the SMO, the structure's contribution to the neighborhood comes into play. Most of the SMO historic structures are located within the Original Townsite. These historic structures deserve the most protection and, therefore, the design standards for these are stricter than for newer buildings. There are also many structures listed as contributing on the historic register outside of the Original Townsite; these, too, follow the same design standards as those in the Original Townsite.

iii) In addition to the standards stated herein, staff and the HPC shall review projects based upon The Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitation, Restoring, and Reconstructing Historic Buildings, and The New Mexico Historic Building Inventory Manual (1980). These resources are available for public review in the Community Development Department or on the City's website.

iv) Ordinary maintenance and repair of any exterior architectural feature in or on a contributing building may be undertaken without a Certificate of Appropriateness provided this work is in keeping with the architecture or character of the building and does not cause a loss of its historic integrity. If such work requires a permit, Community Development staff shall evaluate these permits for consistency with the Design Standards of this Section.

v) Criteria for Requesting and Granting Building Height Exceptions

Pursuant to **Sec. 36-2.D.4.c). Development Standards**, the building heights within the SMO are limited to 14 feet and one story. Through a variance procedure to the HPC, a property owner may request a variance from this maximum building height or number of stories limitation provided that the HPC finds that the proposed building satisfies the following criteria:

a. For new construction:

i. The building is similar in height to another building or buildings within the same block;

ii. The second story is set back from the first story by a minimum of 15 feet;

iii. Second-story windows facing the street shall be small or clerestory;

iv. Second-story windows facing adjacent residential properties shall be frosted to ensure neighbors' privacy; and

v. The design of the building shall satisfy the design standards and guidelines of the SMO.

b. For additions:

i. The addition is limited to 20 percent of the total footprint of the primary building;

ii. The addition must be setback or stepped back from the street-facing facade;

iii. For additions to buildings deemed Contributory to the Historic District, materials and colors of the addition shall distinguish the addition from the original structure;

iv. Second-story windows facing the street shall be small or clerestory;

v. Second-story windows facing adjacent residential properties shall be frosted to ensure neighbors' privacy; and

vi. The design of the building shall satisfy the design standards and guidelines of the SMO.

vii. The maximum building height allowed with a variance procedure shall be 25 feet. The maximum number of building stories allowed with a variance shall be two stories.

k) Design Standards

Additional components that must be given specific attention include the following criteria:

i) Design Standards for All Properties in the SMO:

a. New construction shall reflect a style consistent with those found in The New Mexico Historic Building Inventory Manual (1980) and shall be consistent with the styles of Design Guidelines or Manual established by the HPC for the SMO and with other historic structures found on the same street segment.

b. New construction shall maintain a visual balance and rhythm of the walls, doors and windows along any given street segment.

c. Manufactured homes shall meet design criteria for new construction to the greatest extent possible without altering the structural integrity of the home. This shall include the style and type of materials forming the exterior facade as well as the type and material of skirting that is used. Manufactured homes shall be is compatible in type and materials with adjacent and nearby historic structures.

d. Additions and remodeling projects shall utilize materials that are consistent with the character and architecture of the existing structure. The same materials must be used on all sides of a structure.

e. Changes in materials on a single structure, such as stucco to wood siding or vice-versa, may be made if the different material is also in keeping with the architecture or character of the structure and does not diminish the historic integrity of the structure to any great extent. Changes in materials must also be consistent with other materials used in the neighborhood.

f. Fences/walls shall be of a material that is compatible with the structure or compatible with other fences/walls in the neighborhood.

i. Chain link or square wire fencing is prohibited except if used in a small area within the interior of a lot, such as for a dog run or surrounding a private swimming pool, and cannot be viewed from a public street.

ii. Existing chain link or square wire fencing may be temporarily removed if necessary, but the same fencing must be replaced exactly as it was.

iii. An old chain link or square wire fence may not be replaced with new chain link or square wire fencing; if replaced, the new fence must come into compliance with this Section.

iv. If a chain link or square wire fence is damaged through no fault of the property owner, the fence may be replaced exactly as it was.

v. The HPC has the authority to modify or waive the above wire fence restrictions on a case-by-case basis with a Certificate of Appropriateness.

g. Construction fencing must be removed from the site within three (3) days of issuance of a Certificate of Occupancy or a Certificate of Completion.

h. Dumpsters for commercial or multi-family developments are required to be screened from any streetside facade.

i. Second story elements and single-story structures built to the side or rear property lines shall incorporate window types (e.g. clerestory, frosted) and placement in such a way as to protect the privacy of adjacent neighbors.

j. Outdoor lighting shall meet the requirements of **Sec. 38-9. Outdoor Lighting** and light fixtures shall be consistent with the architectural character of the structure and neighborhood. Fluorescent tube lighting fixtures are prohibited.

ii) Design Standards for Structures Listed as Contributing on the State or National Mesquite Street-Original Townsite Historic District Inventory

a. Additions are not permitted to primary facades, it must be set back from the front facade.

b. Additions and remodeling projects shall have architectural treatments and styles, features, and details as the existing structure, but shall not duplicate those of the existing structure in a manner that will make the addition indistinguishable from the existing structure. Distinguishing characteristics could include, but are not limited to:

   i. Setting back the addition from the original structure a distance to be determined by the proposed addition's relation to the scale and form of the original structure;

   ii. Varying trim, finish texture, facade height, color, etc., to some slight degree;

   iii. Separating the addition from the original structure by a connector;

   iv. Varying the window or brick pattern from the original.

c. If applicable, to the extent architecturally practicable, new additions should be attached to any existing noncontributing portion of the structure instead of attaching them to the contributing portion.

d. The owner shall make every attempt to repair or restore historic windows. Historic windows that cannot be repaired or restored shall be duplicated in size, style, and material of the original to the greatest extent possible. No opening shall be widened or narrowed except as required to comply with building code standards, unless historic documentation supports its prior existence. Vinyl-clad or aluminum windows may be used if they resemble the original windows in size and style. Thermal double pane glass may be used.

e. Original doors shall be retained, and repaired or restored to the greatest extent possible. If existing doors are beyond repair, new ones shall match the original material and should also be similar in design. Flat surfaced and contemporary doors with small decorative windows shall be avoided. No door opening shall be widened or narrowed except as required to comply with Building Code standards, unless historic documentation supports its prior existence.

f. Existing porches or portals shall not be enclosed, unless historic documentation supports its prior existence.

g. No new opening shall be made where one presently does not exist unless historical documentation supports its prior existence. An exception may be made to comply with Building Code standards for egress.

h. No existing opening shall be enclosed unless historical documentation shows that the existing opening is not original to the structure.

i. Existing roof styles and materials shall be maintained or replaced in kind. The addition of parapets, canales, or other roof features should only be considered if they are in keeping with the architectural style of the structure.

j. Specific colors of structure and trim shall not be criteria in evaluating the proposal.

l) Installation of Solar Panels or Other Alternative Energy Equipment

Enhancing the energy efficiency of a historic building is important. To that end, it is often possible to install features such as solar panels and photovoltaic cells, provided they are installed in a sensitive manner. However, for some historic buildings, it may not be possible to incorporate solar panels and meet the Secretary of the Interior's Standards for Rehabilitation. The following standards for installation of these systems shall apply:

i) Installation of panels must be reversible and not damage the historic integrity of the building and district.

ii) Solar panels should be installed on rear slopes or other locations not highly visible from the public right of way whenever possible. Panels should be installed flat and not alter the slope of the roof.

iii) Flat roof structures should have solar panels set back from the roof edge to minimize visibility. Pitch and elevation should be adjusted to reduce visibility from the public right-of-way.

iv) Use solar panels and mounting systems that are compatible in color to established roof materials. Mechanical equipment associated with the solar panel system should be treated to be as unobtrusive as possible.

v) Use of solar systems in windows or on walls, siding, awnings, or shutters should be installed with limited visibility from the public right-of-way.

vi) In circumstances where solar collectors are not placed on rooftops, they should only be positioned in limited or no-visibility locations in secondary areas of the property. Use vegetation or a compatible screen if necessary to further reduce the visual impact of these features on a historic property.

m) Submittal and Review Process

The following submittal and review procedures are established to protect persons and property in the South Mesquite Overlay District. Applications shall be obtained from the Community Development Department, Building Permit Section.

i) Buildings/Structures

Prior to the filing of an application for development and/or signs, a pre-application conference to meet with Community Development Department Staff to review the proposal is required.

ii) Following the pre-application meeting, the Applicant shall submit one copy of all application materials for the development to the Community Development Department for review. Upon submittal, staff shall review the submittal for completeness. If all the required items have been submitted, the Community Development Department shall deem the application complete and shall begin its review process.

iii) The minimum submittal requirements for development proposals shall include the following information that is relevant to the proposal:

a. A Development Application, with appropriate materials required for the SMO, as determined by Community Development staff at the pre-application meeting. The submittal shall include a scaled site plan that includes the following, as applicable:

i. Property boundaries.

ii. Location of all structures.

iii. Age of structures.

iv. Setbacks of all structures, existing and proposed.

v. Parking layout, if applicable.

vi. Ingress/egress access points.

vii. Areas proposed for landscaping.

viii. Surfacing material for impervious surfaces, if applicable.

ix. Stormwater ponding areas.

x. Dumpster location(s).

xi. Location of service and loading area(s).

xii. Freestanding and attached sign locations where applicable.

xiii. North arrow.

xiv. Any other information that conveys how the proposal will meet development requirements.

b. A statement of objectives to be achieved by the development, inclusive of a description of the character and anticipated use of the proposed development.

c. If the structure is listed as contributing on the State or National Mesquite Street—Original Townsite Historic District inventory, a description of the known history of the structure shall be included. Photos are encouraged to support the purpose of the application.

d. Scaled elevations or renderings that are detailed enough so that a realistic picture is given of the proposed project to a close approximation of the finished project. It should be apparent from the submission that the design criteria herein have been met to the greatest extent possible. Color architectural/artistic renderings shall:

   i. Reflect all aspects/views of the exterior of the structure.

   ii. Demonstrate the use of building materials through the drawings or with a legend or an attached list.

   iii. Detail the fenestrations, other building openings, rooflines, ornamentation, woodwork, and other features of the structure.

e. If required, the Applicants shall present their proposal to the HPC at a public meeting. At that time, a formal decision by the HPC regarding the proposed project will be made and a Certificate of Appropriateness or Letter of Denial will be issued by staff within five days. This record of the HPC shall be entered into the Case File for reference by building inspectors, plan examiners, and other relevant City staff. Public meeting procedures and notice requirements will follow that of the Planning and Zoning Commission found in **Sec. 34-3.G. Notice for a Public Meeting**.

f. Those projects not required to be reviewed by the HPC shall be reviewed by Community Development staff using the same criteria and procedures found herein.

g. A scaled landscaping plan shall include:

   i. Location, size, and common name of all landscaping

   ii. A complete irrigation plan shall be included, clearly identifying how the landscape will be sustained.

h. Community Development staff shall ensure that the Applicant satisfies any conditions of approval stated in the Certificate of Appropriateness (CoA); if the Applicant proposes any changes to the project involving architectural or structural elements, location, or materials that alters the CoA approval conditions, the Applicant shall submit revised plans for review by the HPC. If the Community Development staff, upon inspection prior to issuance of a Certificate of Occupancy or Completion, notices that the Applicant changed a design element that is inconsistent with the CoA, the Applicant shall submit a revised plan showing the changed element and the HPC shall review the change to see if it meets the SMO design guidelines, standards, and criteria. The HPC shall have the authority to recommend to the City's Building Official that the substituted element be removed and replaced with one that is approved by the HPC.

n) Demolition

To preserve the character of the State and National Mesquite Street-Original Townsite Historic Districts and surroundings, this ordinance creates a 60-day demolition permit application review process that will allow time for interested parties to explore alternatives to the demolition of historic structures.

i) Property owners intending to demolish any structure located within the SMO must adhere to the following 60-calendar day process. The Applicant may withdraw the permit application at any time with a written notice to the Director of the Community Development Department.

ii) Demolition permit applications shall be submitted to the Community Development Department prior to any demolition activity taking place. During the 60-day review, Community Development Department staff will review the application for compliance with the Las Cruces Building Code (Chapter 30 of the LCMC).

iii) A proposal for redevelopment of the property, with elevations, must accompany the permit application; this proposal shall describe a potential or proposed development proposal for the property, and whether it is proposed for the near or distant future.

iv) Prior to the demolition of a structure designated as Contributing within the State or National Historic District, the Applicant shall be responsible for fully documenting the structure, both interior and exterior, to provide a permanent record, in accordance with documentation procedures as follows. The demolition permit will not be approved without submittal and approval of this documentation by Community Development staff:

a. Completion of the New Mexico Historic Cultural Properties Inventory (HCPI)-Form, available in the Community Development office and online.

b. Photographing the property

c. Take several photos (front, rear, sides, close-up views, details, setting, etc.) of the historic structure proposed for demolition (primary structure and/or each historic accessory structure, such as a garage, sheds, etc.) Buildings that are not listed on the historic register need not be included. For more information on documentation, please refer to the National Register Photo Policy Fact Sheet available in the Community Development Department and online.

d. If known, a short history of the property should be included, in order to document how that property fits within the historic district or community.

v) Posting

At the beginning of the 60-day review process, the Community Development Department will prepare a public notice sign that is to be posted by the Applicant in a conspicuous place on the property. The Applicant is responsible for ensuring that it is in place for the entire 60-day period. The Department will publish a legal notice describing the proposed demolition and contact information for the Applicant. A fee shall be charged to the Applicant for the cost of the public notice.

vi) At the beginning of the 60-day review process, the Community Development Department will inform the HPC, neighborhood associations, the New Mexico State Historic Preservation Office (SHPO), and other pertinent organizations or interested parties that a demolition permit has been applied for.

vii) A demolition permit shall be issued upon the completion of the following items:

a. The completion of the 60-day period;

b. Documentation of the structure as described above; and

c. The application meets all City Code requirements and has been approved by the Community Development Department Staff. (Code compliance comments regarding the proposed demolition may be resolved within the 60-day time period).

viii) Compliance with the procedure set out in this Section may be waived by the City Manager if it is determined that immediate demolition of a historic structure is necessary to remove a hazard to the health, safety, and welfare of the public. In such a case, the Community Development Department shall immediately notify the HPC, neighborhood associations, SHPO, and other pertinent organizations and interested parties that demolition of the structure is imminent.

o) Appeals

In the South Mesquite Overlay District, any applications for development must be approved by the City in order for a use permit, building permit, or sign permit to be issued. If required by this Section, review and approval by the HPC must precede issuance of a permit.

i) A decision made by staff may be appealed by any aggrieved person to the HPC. Such appeal must be made in writing within 15 calendar days of the staff decision. The appeal will be presented to the HPC at their next regularly scheduled meeting.

ii) Appeals for a decision made by the HPC, Planning & Zoning Commission, or City Council shall be in accordance with **Sec. 34-3.F.1.c) Timing for Filing Appeal**.

iii) A request that is denied by the HPC and/or City Council shall not be resubmitted or reconsidered for a period of one year. However, after meeting with Community Development Department staff, a different request on the same property may be submitted no less than six months after such denial decision.

5. UD, University District Overlay District

   a) Intent and purpose. The University District Overlay intends to allow greater flexibility to developers and land owners while encouraging the development of a vibrant, mixed-use University District. The purpose of this document is to implement transportation, land use, and urban design policies as established in the University District plan. Specifically, the purpose of this overlay is to stipulate provisions which will:

      i) Promote a pedestrian-oriented urban form in the University District. The focus on form promotes buildings that conform to tested urban design principles and that adapt to changing conditions over time.

      ii) Establish an area with a rich mix of uses: Commercial, cultural resources, residential, and transportation choices.

      iii) Maximize connectivity and access in a multimodal circulation network in which residents, workers, and visitors may conveniently walk, drive, bike, or ride public transportation to destinations within and outside of the district.

      iv) Support existing University District businesses.

      v) Promote sustainable development that minimizes negative impacts on natural resources. A walkable, mixed-use, higher-density University District supports sustainable development by providing an alternative to low-density development in peripheral areas. University District's buildings, transportation systems, and public spaces should be designed to minimize negative impacts on air and water quality and promote innovation in environmental design.

      vi) Create a seamless destination where the City of Las Cruces and New Mexico State University meet.

   b) Applicability.

      i) Introduction. This overlay applies to all properties that have been rezoned within the University District overlay zone. It shall be used to regulate the design of new streets, new buildings, and new public spaces.

      ii) Terms. The provisions of this overlay are activated by "shall" when required; "should" when recommended; and "may" when optional. Technical terms used throughout this Code may be defined in **Sec. 34-5. Definitions**. Those terms not defined in **Sec. 34-5. Definitions** shall be accorded their commonly accepted meanings. In the event of conflicts between these definitions and the provisions herein stated, the Community Development Director shall have the authority pursuant to **Sec. 34-1.I. Interpretations** to determine which will be imposed.

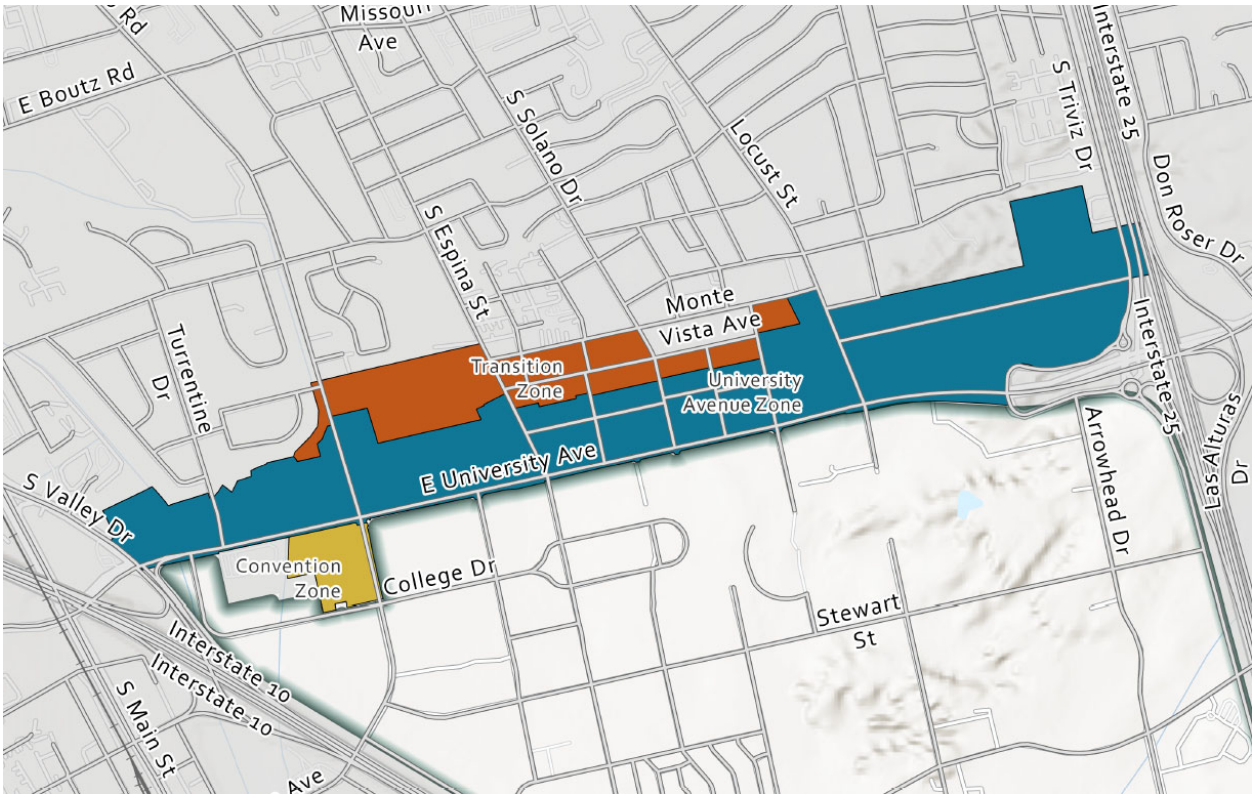
   c) Diagrams and Illustrations. Diagrams and illustrations are an integral part of this overlay and are used to help explain standards and guidelines. The diagrams and illustrations are for illustrative purposes only. When in conflict, written text shall take precedence over diagrams and illustrations.

   d) Delineation of Overlay District.

      i) The University District Overlay applies to all properties within the boundaries noted on the associated map. Please refer to **Figure 36-2-31. University District Overlay**.

      ii) Within the boundary of this overlay, three distinct zones shall be established: University Avenue Zone (UD-UAZ), Transition Zone (UD-TZ), and Convention Zone (UD-CZ). The locations of these zones are on the associated map.

**Figure 36-2-31. University District Overlay**




e) The vision for the zones.

i) University Avenue Zone (UD-UAZ): The UD-UAZ is assigned to land appropriate for an urban neighborhood center with a mix of building types and uses. These lands are generally occupied by attached residential houses, apartment buildings, and commercial or mixed-use buildings. Civic and religious use buildings may also be present. Lands may also be used for playgrounds, squares, and plazas. Two- to five-story buildings are encouraged. Block sizes are limited to create a walkable and well-connected network of streets. Streets are designed to encourage pedestrian activity by generally including on-street parking, curbs and gutters, parkways with street trees, and wide sidewalks. University Avenue shall be the primary frontage for properties on University Avenue.

ii) Transition Zone (UD-TZ): The UD-TZ is assigned to land appropriate for neighborhoods with a mix of building types and uses. These lands are generally occupied by detached and attached residential houses, small apartment buildings, and small commercial or mixed-use buildings. Civic and religious use buildings may also be present. Lands may also be used for playgrounds, passive and active neighborhood parks, and squares. The buildings may be one to three stories high with shallow front setbacks and small or no side and rear yards. Block sizes are limited to create a walkable and well-connected network of streets. Streets are designed to encourage pedestrian activity by generally including on-street parking, curbs and gutters, parkways with street trees, and wide sidewalks.

iii) Convention Zone (UD-CZ): The UD-CZ is assigned to land suitable for development that, by its intrinsic size, function, or configuration, may not conform to the descriptions and standards for one of the other zones. The development types include convention and exhibition hall, hotel, and ancillary uses such as restaurants and specialty retail.

f) Definitions. Definitions are in addition to those noted in **Sec. 34-5. Definitions** unless otherwise noted here:

*Brew-pub:* A brew-pub is a microbrewery that serves food or is combined with a pub. A microbrewery, or craft brewery, is a brewery that produces a limited amount of beer. The maximum amount of beer a brewery may produce and still be classed as a microbrewery in New Mexico is less than or equal to 200,000 barrels a year, according to the New Mexico Alcohol and Gaming Division.

*Callecita* or *lane:* Combines the space for a car with the space for the pedestrian. See also the Las Cruces Downtown Revitalization Final Schematic Design and Concept Report, adopted August 2005.

*Dwelling, above ground floor:* Dwelling unit(s) located above ground floor office or commercial uses.

*Front facade:* A term that is equivalent to "primary front" or “primary frontage” throughout this Development Code. It is the elevation with the main entrance to a building that faces a public street. In the UAZ, the primary or front facade faces University Avenue.

*Green roof:* As defined by the U.S. Environmental Protection Agency, green roofs, also known as rooftop gardens, are planted over existing roof structures, and consist of a waterproof, root-safe membrane that is covered by a drainage system, lightweight growing medium, and plants. Green roofs reduce rooftop and building temperatures, filter pollution, lessen pressure on sewer systems, and reduce the heat island effect.

*Guest dwelling:* A dwelling to be used for temporary occupancy only and is not to be rented or leased. A guest dwelling shall be no more than 50 percent of the main dwelling's heated/cooled square footage and shall not contain a kitchen. (See also **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #19 Accessory Dwelling.)

*Live/work unit:* A building that may be used flexibly for living and working in the same building. A variety of uses in the buildings is encouraged. Dwelling units may be located above the ground floor, attached to the rear of a shop front, or detached and located in the rear or side yard. Work is of a commercial nature subject to business registration requirements and not a home occupation.

*Mixed-use:* For the purposes of this overlay, the term refers to the practice of allowing more than one type of land use category (For example, residential, office or commercial, etc.) in a single building or set of buildings located on a single parcel.

*Outdoor plaza or space:* A generally open area that may be used for active or passive purposes by one or more businesses and the public visiting the location. An example may include an outdoor seating area for a cafe or restaurant serving as an extension of one or more business, a landscaped plaza serving as open space for patrons and visitors alike, etc.

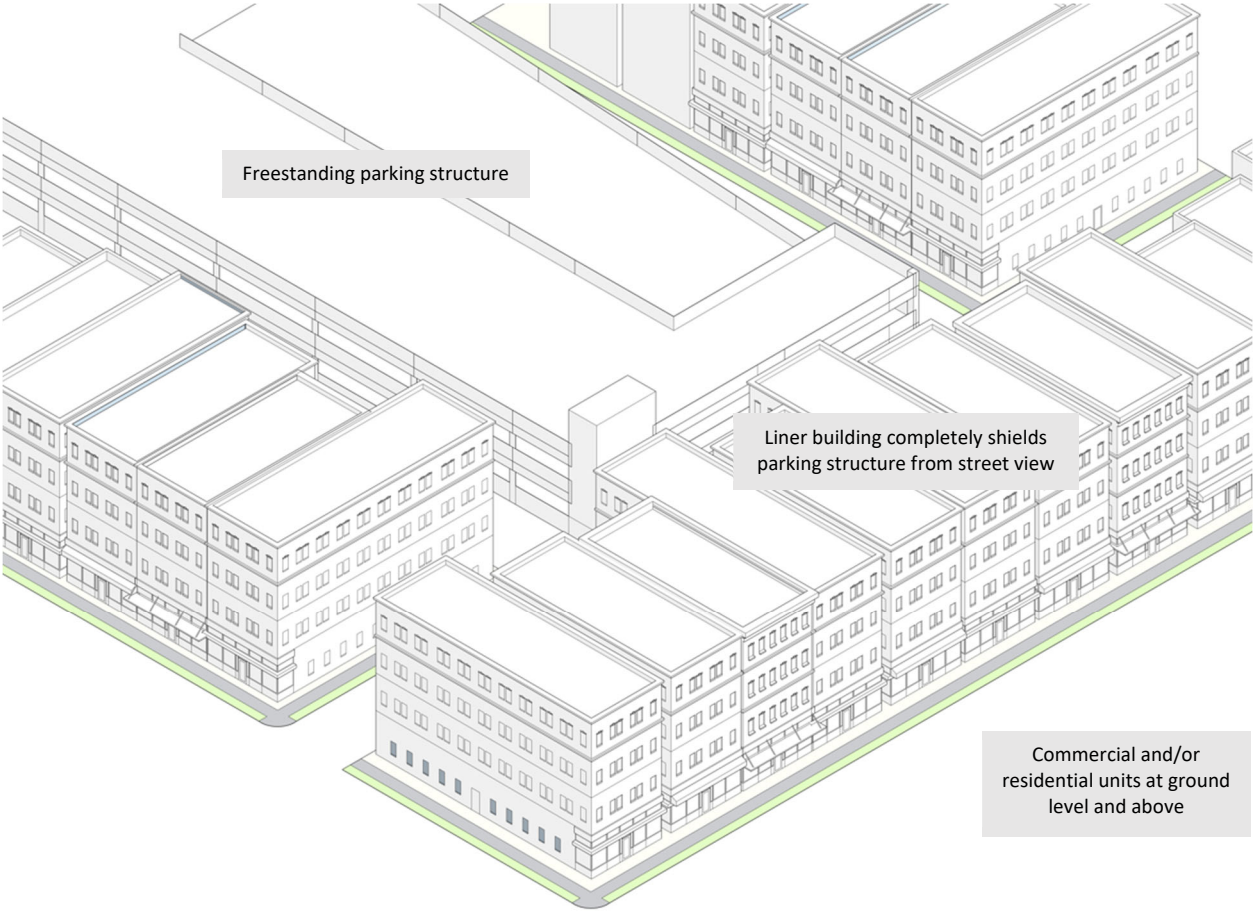
*Parking garage with and without liner building:* A combination of structures for parking and a mix of uses (commercial, residential, office) where parking is designed to be concealed from view and levels of parking are at-grade, above grade, or partially below-grade (but not fully underground). A liner building is a specialized building that may be built as part of the parking structure or separate; it is parallel to the street and designed to conceal a parking structure from the street with active ground floor uses such as retail shops or residential stoops. A parking garage may be designed without a liner building provided that it is designed in such a way so as to incorporate active ground floor uses, architectural features, and articulated elements to mitigate blank walls and screen parking.

*Pedestrian scale lighting:* Lighting that shall be a maximum of 16 feet in height and shall contribute to the overall character of the surrounding community, site architecture, or other site features.

*Performing arts center:* A multi-use performance space that is intended for use by various types of performing arts, including dance, music, and theatre.

*Secondary residence:* A dwelling unit that is subordinate in size and location to the main dwelling on a single property, and may be rented or leased as an independent dwelling unit. A secondary residence is different from a guest dwelling or accessory structure in that it is a distinct dwelling unit containing a kitchen. Examples include an apartment or cottage.

*Single use:* For the purposes of this overlay, the term refers to either one or multiple component parts of a single land use category, such as residential, office, or commercial. Multiple office-related businesses on a single parcel or tract shall be considered a single use. For the purpose of this overlay, there shall be a limit to a concentration of single land uses in favor of a mix of uses.




g) Permitted Uses

i) General Provisions

a. Mixed-use development is permitted throughout the University District. Mixed-use is defined as the practice of allowing more than one type of use, including residential, in a building or set of buildings.

b. The City shall seek to streamline review, subdivision processing, and waiver of permit and application fees as appropriate within the University District Overlay. Use of these provisions shall be allowed regardless of a parcel's status (vacant, underutilized, etc.).

c. There shall be no development or alteration of the lands, uses, or structures within this overlay except as provided for by this section of the Development Code and other codes where applicable. For example, under no circumstances shall development violate the City's traffic standards for maintaining a clear sight triangle (**Sec. 38-2.H. Clear Sight Triangle**).

d. Commercial (retail and service) and office drive-thru windows/drive-up windows are discouraged in the University District. Drive-through uses do not support a pedestrian-oriented environment and are inconsistent with the goals for the University District. Although drive-through facilities are discouraged, the following standards shall apply to facilities approval by the UD-CDRC.

i. Windows and stacking lanes. Drive-through windows and stacking lanes shall not be located within the front yard setback or along facades that face a street. Drive-through windows shall be located at the rear of buildings.

ii. Circulation. The design and location of the facility shall not impede vehicular traffic flow and shall not impede pedestrian movement and safety. Shared driveways and/or driveways located off of non-arterial streets should be used, where possible.

iii. Screening. Architectural elements, landscaping, and/or other screening elements shall be used to minimize the visual impacts of the drive-through facility.

e. Developments with frontage on University Avenue greater than 400 linear feet shall be mixed-use.

f. Land uses that do not appear on this list shall be reviewed by the Community Development Director and a determination will be made as to whether said use is consistent and/or congruous with others listed or whether or not it requires a special use permit by its intended omission.

ii) University Avenue Zone (UD-UAZ), Transition Zone (UD-TZ) and Convention Zone (UD-CZ). Please refer to **Figure 36-2-32. UD Overlay Permitted Uses** for uses that are allowed (A), conditional (C) and not permitted (NP). Please refer to **Sec. 36-3.A.1. Permitted Use Chart** for the number of auto parking stalls required per land use.

**Figure 36-2-32. UD Overlay Permitted Uses**

A = Approved by Right, C = Conditions apply to more than one zone unless otherwise noted, NP = Not Permitted

| | UD-UAZ | UD-TZ | UD-CZ | CONDITIONS | BICYCLE PARKING SPACES (BPS) |
|---|---|---|---|---|---|
| AGRICULTURE & EQUESTRIAN USES | | | | | |
| Veterinary Facility | A | C | NP | Close 10 p.m. | 1 BPS/20 employees on maximum shift |
| INDUSTRIAL LAND USES | | | | | |
| Light Manufacturing (Cabinetry and Woodworking; Cottage Industry Retail or Service, Jewelry, Silverware & Plated Ware; Musical Instrument Fabrication/Manufacture; Printing and Publishing; Signs & Advertising) Fabrication/Manufacture | C | C | NP | NEW: Light manufacturing uses permitted shall be an accessory use to a retail business in the UD. A maximum of 49 percent of the square footage of the buildings may be used for light manufacturing uses. The use shall meet all requirements for the district including the intent and purpose.<br>CONDITIONS:<br>1. No activity producing noise, glare or heat observable or measurable outside the building is allowed.<br>2. No emission of objectionable dust, fumes, odors, vapors, gases, smoke or other forms of air pollution shall be permitted.<br>3. No vibration shall be permitted which is discernible beyond the property lines to the human sense of feeling for three minutes or more duration in any one hour of a day.<br>4. No outside storage. | 1 BPS/20 employees on maximum shift |
| Communication/Vertical Structures | C | C | C | See **Sec. 38-11. Wireless Communication Facilities** | |
| Face Mount (attached to primary use) | C | C | C | See **Sec. 38-11. Wireless Communication Facilities** | N/A |
| Laboratories (Medical/Dental/R & D) | NP | NP | NP | | |

A = Approved by Right, C = Conditions apply to more than one zone unless otherwise noted, NP = Not Permitted

| | UD-UAZ | UD-TZ | UD-CZ | CONDITIONS | BICYCLE PARKING SPACES (BPS) |
|---|---|---|---|---|---|
| Manufacturing, General | NP | NP | NP | | |
| Ministorage Units | NP | NP | NP | | |
| Parking Lots (Private or Public) | NP | NP | NP | | |
| Parking Garage with Liner Building, Commercial or Public | A | C | A | Not to exceed maximum height (45 feet). | |
| Storage/Display of Merchandise for Sale (exc. Manufactured buildings, mobile homes & operable cars, trucks, motorcycles & RVs) | NP | NP | NP | | |
| Storage outside of buildings of materials, equipment and supplies not for sale | NP | NP | NP | | |
| Storage, warehousing accessory to Office, Retail, Service, or Industry | NP | NP | NP | | |
| Recycling Centers | NP | NP | NP | | |
| Water Purification, Commercial | NP | NP | NP | | |
| Wholesale Trade, any product | NP | NP | NP | | |
| INSTITUTIONAL RELATED USES | | | | | |
| Child Care or Preschool (13 or more children) | C | C | NP | See #36 Child Care Center in **Sec. 36-3.B** | 1 BPS/7000 GFA |
| Community Buildings - Uses (includes Community Recreation Facility, etc.) | A | C | C | | 1 BPS/5000 GFA |
| Convention Center/Exhibition Hall | NP | NP | A | | 1 BPS/75 Maximum occupancy |
| Family Child Care Home (5-6 children) | C | C | NP | See #37 Child Care Home (≤6) in **Sec. 36-3.B** | 1 BPS/7000 GFA |
| Group Child Care Home (7-12 children) | C | C | NP | See #38 Group Child Care Home (7-12) in **Sec. 36-3.B** | 1 BPS/7000 GFA |
| Institutional Office (i.e., Convention & Visitors Bureau, etc.) | A | A | C | Accessory to Convention Center/Exhibition Hall | 1 BPS/8000 GFA |
| Religious Institution w/Columbarium | C | C | NP | See #43 Cemetery or Columbarium in **Sec. 36-3.B** | 1 BPS/40 seats in primary assembly |
| Library/Museum | A | C | A | Building and site design requires pedestrian orientation and compliance with Building and Site Standards in UD Overlay [b) Placement of Primary Building; d) Frontage Elements, Primary Building] | 1 BPS/1000 GFA |
| Performing Arts Center | A | C | A | Close 10 p.m. | 1 BPS/50 Maximum occupancy |
| School (K-8) Public, Private, Parochial | C | C | NP | See #39 School (K-8) in **Sec. 36-3.B** | 6 BPS/classroom |
| School (9-12) Public, Private, Parochial | C | C | NP | See #40 School (9-12) in **Sec. 36-3.B** | 4 BPS/classroom |
| School, College or University | C | C | C | See #41 School (College or University) in **Sec. 36-3.B** | 1 BPS/20 Employees + 1 BPS/4 Students |
| School, Commercial, Trade or Technical | C | C | C | See #42 School (Commercial, Trade, or Technical) in **Sec. 36-3.B** | 1 BPS/20 Employees + 1 BPS/4 Students |
| OFFICE & COMMERCIAL LAND USES | | | | | |
| Adult Amusement Establishment | NP | NP | NP | | |

A = Approved by Right, C = Conditions apply to more than one zone unless otherwise noted, NP = Not Permitted

| | UD-UAZ | UD-TZ | UD-CZ | CONDITIONS | BICYCLE PARKING SPACES (BPS) |
|---|---|---|---|---|---|
| Adult Bookstore/Video Store | NP | NP | NP | | |
| Art or Photography Studio | A | A | NP | | 1 BPS/8000 GFA |
| Auto/Truck/Trailer Rental | NP | NP | C | Auto rental only when accessory use to Hotel, Convention Center, Exhibition Hall. Not to exceed 10 parked cars. | 1 BPS/6000 GFA |
| Cab Stand | NP | NP | NP | | |
| Eating & Drinking Establishments (Bar, Pub, Tavern (Dancing & No Dancing); Cafe, Cafeteria, Coffee Shop, Convenience Store; Deli with eating facilities; Restaurant, etc.; Brew-Pub) | A | A | C | New use category that contains both uses in current zoning code and a new one for Brew-Pub.) CONDITIONS: Ancillary to primary Hotel use, Convention Center, & Exhibition Hall. | 1 BPS/1000 GFA |
| Equipment (Large) Repair & Service (Non-Vehicular) | NP | NP | NP | | |
| Equipment Rental | C | C | NP | Outside storage prohibited. | 1 BPS/20 employees |
| Gas Station with Convenience Store | C | NP | NP | Prohibit mid-block locations and at intersections on University Avenue between Turrentine Drive and Locust Street. Repair facilities prohibited. | 1 BPS/2000 GFA |
| General Commercial & Retail (Bicycle Sales, Service & Repair; Building Material (no outdoor sales or storage); Carpet/Window Treatments; Clothing Store; Department Store; Furniture Store; Garden Supply; Grocery Store; Hardware Store w/out outdoor sales or storage; Specialty Store such as books, music, toys, etc.; Pawn Shop; Plant Nursery; Small Item Repair Shop; Telephone & Communication Center; Upholstery Shop, no outdoor storage; Variety Store; Video Tape/DVD/Rental/Sales; and other typical small-scale Commercial establishments) | A | A | C | Ancillary to primary Hotel or Convention Center use. | 1 BPS/2000 GFA |
| General Office & Service (Accounting, Auditing & Bookkeeping; Architectural, Engineering, Planning & Surveying; Bank, Bonding & Financial Institution (No Drive-Thru); Barber/Beauty/Hair Salon & Related Personal Care; Cleaning & Maid Services; Consulting Services; Counseling Services; Credit Reporting & Collection; Desktop Publishing & Graphic Design; Funeral Home; Health Care Clinic (non-hospital); Insurance; Laboratory; Legal Services; Lessons (Art, Dance, Music, etc.); Mailing & Records Management Services; Medical/Dental Office; Motion Picture Production; Pharmacy; Radio/TV Studio/Station; Real Estate; Research Organization, Noncommercial; Tax Preparation; Telemarketing/Mail Order/Call Center; and other similar Business Offices.) | A | C | C | TZ: Close 10 p.m. CZ: Ancillary to primary Hotel or Convention Center use. | 1 BPS/8000 GFA. Medical Office add 1 BPS/2 Doctors |
| Health Care Clinic (Non-Hospital) | A | C | NP | Close 10 p.m., location on Collector or higher. | 1 BPS/10000 GFA |
| Hospital | NP | NP | NP | | |

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| | UD-UAZ | UD-TZ | UD-CZ | CONDITIONS | BICYCLE PARKING SPACES (BPS) |
|---|---|---|---|---|---|
| Hotel/Motel | A | NP | A | | 1 BPS/20 employees on maximum shift. For additional onsite uses (offices, meeting rooms, ...) see individual req'ts. |
| Kennel/Cattery, Commercial | NP | NP | NP | | |
| Newspaper Distribution | NP | NP | NP | | |
| Petroleum/Propane Sales | C | C | NP | Ancillary to retail use. | N/A |
| Private Club or Lodge | A | C | NP | Close 10 p.m. | 1 BPS/2000 GFA |
| Temporary (Non-seasonal) | C | C | C | See #35 Seasonal/Temporary Sales or Use in **Sec. 36-3.B** | 1 BPS/2000 GFA |
| Theater, Movie (Commercial) | A | C | NP | Building and site design requires pedestrian orientation and compliance with Building and Site Standards in UD Overlay [b) Placement of Primary Building; d) Frontage Elements of the Primary Building]. | 1 BPS/60 seats |
| | | | | | |
| Mobile Home, Auto, Motorcycle & Manufactured Home Sales, Service & Repair (Auto Body Shop; Auto/Truck Parts Store; Auto/Truck Repair & Service; Auto/Truck Wash/Wax/Detailing; Self-Service/Automated or Full Service; Auto/Truck/Motorcycle Dealers; Truck/Trailer Rental (separated Auto Rental conditioned in CZ as an accessory to hotel use); Automobile, Truck and Camper Sales, Service and Repair); Tire Sales/Repair | NP | NP | NP | | |
| RECREATIONAL USES | | | | | |
| Arcade/Game Room | A | C | NP | Hours of operation: Close 10 p.m. | 1 BPS/1000 sqft GFA |
| Billiard/Pool hall | A | C | C | TZ: Hours of operation: Close 10 p.m.; CZ: Ancillary to primary hotel use and subject to NMSU lease agreement. | 1 BPS/4000 sqft GFA |
| Golf Course, Miniature | A | C | NP | Hours of operation: Close 10 p.m. | 1 BPS/6 tees + 1/1500 sqft GFA |
| Health/Exercise Club/Gymnasium/Sports Instruction | A | A | C | Ancillary to primary hotel use. | 1 BPS/1500 sqft GFA |
| Park | A | A | NP | | per Director |
| Recreational Court, Tennis, etc., Public/Private | A | A | NP* | | 1 BPS/5 courts |
| Swimming Pool, Commercial or Public/Private | C | C | C | UAZ + TZ: if the pool is part of a MU development & meets the conditions of the code for placement, utilities, walls & fences, stormwater retention. CZ: When ancillary to primary hotel use. | 1 BPS/1250 sqft of pool surface |
| Botanical Park | C | C | NP | Building and site design requires pedestrian orientation and compliance | 2 BPS/acre |

A = Approved by Right, C = Conditions apply to more than one zone unless otherwise noted, NP = Not Permitted

| | UD-UAZ | UD-TZ | UD-CZ | CONDITIONS | BICYCLE PARKING SPACES (BPS) |
|---|---|---|---|---|---|
| | | | | with Building and Site Standards in UD Overlay [b) Placement of Primary Building and d) Frontage Elements of Primary Building] | |
| Apartments (including Condominiums) | C | C | NP | Achieve minimum density: 10 DU/ac in TZ and 15 DU/ac in UAZ | 1 BPS/4 DU |
| Assisted Living or Retirement Facility | C | C | NP | Building and site design requires pedestrian orientation and compliance with Building and Site Standards in UD Overlay (B: Placement of Primary Building; F: Frontage Elements (Primary Building) | 1 BPS/20 Employees on maximum shift |
| Bed and Breakfast | C | C | NP | UAZ: Maximum 15 rooms; TZ: maximum 8 rooms. Consistent with design guidelines in this overlay. | 1 BPS/4 rooms |
| Boarding House | A | A | A | | 1 BPS/4 rooms |
| Detached Site Built Single Family DU | C | C | NP | Achieve minimum density: 15 DU/ac in UAZ, 10 DU/ac in TZ | N/A |
| Duplex (including Condominiums) | C | C | NP | Achieve minimum density: 15 DU/ac in UAZ, 10 DU/ac in TZ | 1 BPS/Unit |
| Dwelling, Live-Work | C | C | NP | Dwelling unit is attached to the rear of a shop front or detached and located in the rear or side yard or located above the ground floor and that work is of a commercial nature subject to business registration requirements and not a home occupation. | 2 BPS/Unit |
| Dwelling, Located Above Ground Floor | C | C | NP | Achieve minimum density: 15 DU/ac UAZ and 10 DU/ac TZ. | 1 BPS/Unit |
| Fraternity/Sorority House | A | A | NP | | 1 BPS/2 Bdrms |
| Guest Dwelling | C | C | NP | See #19 Accessory Dwelling in **Sec. 36-3.B** | 1 BPS/Unit |
| Halfway House | A | A | NP | | 1 BPS/4 Bdrms |
| Home for Disabled | A | C | NP | Ten or fewer persons served allowed in TZ. More than 10 persons served, allowed in UAZ only. | 1 BPS/20 Employees on maximum shift |
| Manufactured Dwelling Unit | C | C | NP | Achieve minimum density: 15 DU/ac in UAZ, 10 DU/ac in TZ | N/A |
| Nursing Home | C | C | NP | Building and site design requires pedestrian orientation and compliance with Building and Site Standards in UD Overlay [b) Placement of Primary Building and d) Frontage Elements of Primary Building]. | 1 BPS/80 Beds |
| Patio Home | C | C | NP | See **Sec. 36-4.B.4 Dimensional Standards for Palliative**<br>**Any agent used** to lessen or reduce dust emissions.<br>Patio Homes and Townhouses, Achieve minimum density: 15 DU/ac in UAZ, 10 DO/ac in TZ | 1 BPS/Unit |
| Quadplex (including Condominiums) | C | C | NP | Achieve minimum density: 15 DU/ac in UAZ, 10 DU/ac in TZ | 1 BPS/4 DU |
| Secondary Residences | C | C | NP | Achieve minimum density: 15 DU/ac in UAZ, 10 DU/ac in TZ. | 1 BPS/Unit |

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| | UD-UAZ | UD-TZ | UD-CZ | CONDITIONS | BICYCLE PARKING SPACES (BPS) |
|---|---|---|---|---|---|
| Townhouse (Attached Single Family DU) | C | C | NP | Achieve minimum density: 15 DU/ac in UAZ, 10 DU/ac in TZ | 1 BPS/Unit |
| Triplex (including Condos) | C | C | NP | Achieve minimum density: 15 DU/ac in UAZ, 10 DU/ac in TZ | 1 BPS/Unit |
| Youth Hostel | A | A | NP | | 1 BPS/10 Beds |
| RESIDENTIAL RELATED USES | | | | | |
| Accessory Dwelling Unit | A | A | NP | See #19 Accessory Dwelling in **Sec. 36-3.B** | N/A |
| Accessory Uses & Structures | C | C | NP | **Sec. 36-4.B.2 Accessory Structures** | N/A |
| Greenhouse (Non-commercial), Garden Shed, Tool Shed | C | C | NP | See **Sec. 36-4.B.2 Accessory Structures** | N/A |
| Home Occupation | C | C | NP | See #23 in Home Occupation in **Sec. 36-3.B** | N/A |
| Kennel/Cattery (Private Residential) | C | C | NP | In accordance with Chapter 7 of the LCMC Code of Ordinances | N/A |
| Storage of recreational vehicles and motor vehicle appurtenances | C | C | NP | See #67 Recreational Vehicle Park in **Sec. 36-3.B** and **Sec. 38-2.N.6.g) Parking and Storage of Large Motor Vehicles** | N/A |

h) Property alteration, remodel, or renovation.

i) Purpose. Property alterations, remodels, or renovation standards are established for this district to maintain consistent quality standards for all development and may be for the purpose of adaptive re-use of the structure. For the purposes of this section, exterior remodel, renovation, or alteration shall be defined as: Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, as well as any change in rooflines, or any enlargement to or diminution of a building or structure, whether horizontally or vertically. Normal maintenance activities as verified by the Building Official are exempt from this provision.

ii) Minor modifications. Changes to a property may be made without requiring compliance with the University District Overlay Urban Design Standards (architecture, landscaping, signage, and utilities). The expansion and/or modification must comply with the urban design standards of the University District Overlay unless through the determination of the Community Development Director, said compliance would substantially create an undue burden to the property owner or create a condition whereby the expansion and compliance measure, partially applied, would be substantially out of character with the existing development. In no case shall a minor modification/expansion equal or exceed a cumulative total of 15 percent of the gross floor area, nor shall an expansion or modification equal or exceed a cumulative total of $25,000.00 in valuation. A proposal equal to or exceeding these values or one that impacts parking and landscaping shall not be considered as a minor addition and/or modification. It shall, therefore, be subject to normal review and consideration afforded development in the overlay and may be subject to nonconforming provisions that follow. The applicant must provide estimates for the cost of labor as a means of ensuring compliance with the valuation criteria.

a. Once permission to proceed has been granted by the Community Development Director, the applicant may apply for the permit. Work shall not commence until permit approval is granted.

b. Should an applicant or aggrieved party not agree with the interpretation by the Community Development Director, the interpretation may be appealed to the University District Citizens Design Review Committee for their recommendation to the Planning and Zoning Commission. All other

nonconforming use requirements are subject to **Sec. 36-5.G. Nonconformities** and the City's design standards.

i) Nonconforming uses. Nonconforming uses within the University District Overlay shall be subject to the following provisions.

i) Permitted uses—Nonconforming.

a. When nonconforming site/urban design features regarding access from the right-of-way or lighting are involved, these features shall be brought into compliance with current standards when:

i. The property remains vacant for a period of one continuous year or greater; or

ii. Any one-time or cumulative increase of 15 percent or greater to the gross square footage of building area occurs; or

iii. Any interior/exterior remodel, renovation, or alteration occurs to the building in the amount of $25,000.00 or greater; or

iv. A change in use occurs on the property that results in the alteration of the use intensity (for example, low volume retail to high volume retail), use orientation (for example, service to retail), or density (for example, eight dwelling units to 15 dwelling units) or change in occupancy type from the building code perspective.

b. When nonconforming site/urban design features regarding signage, landscaping, walls, or parking are involved, these features shall be brought into compliance with current standards when:

i. The property remains vacant for a period of one continuous year or greater; or

ii. Any one-time or cumulative increase of 50 percent or greater to the gross square footage of building area occurs; or

iii. Any interior/exterior remodel, renovation, or alteration occurs to the building in the amount of $75,000.00 or greater; or

iv. A change in use occurs on the property that results in the alteration of the use intensity (for example, low-volume retail to high-volume retail), use orientation (for example, service to retail), or density (for example, eight dwelling units to 15 dwelling units) or change in occupancy type from the building code perspective.

c. When nonconforming site/urban design features regarding architecture/building elements associated with Glazing requirements are involved, these features shall be brought into compliance with current standards when:

i. The property remains vacant for a period of one continuous year or greater; or

ii. Any one-time or cumulative increase greater than 75 percent or greater to the gross square footage of building area occurs; or

iii. Any interior/exterior remodel, renovation, or alteration occurs to the building in the amount of $200,000.00 or greater; or

iv. A change in use occurs on the property that results in the alteration of the use intensity (for example, low-volume retail to high-volume retail), use orientation (for example, service to retail), or density (for example, eight dwelling units to 15 dwelling units) or change in occupancy type from the building code perspective.

ii) Prohibited uses—Nonconforming.

a. Uses that existed within the overlay prior to plan/ordinance adoption (2010) that are deemed a prohibited use may be allowed to continue to exist and expand or enlarge (either one-time or cumulative increase) provided that:

i. The property has not remained vacant for a period of one continuous year or greater; or

ii. A change in use has not occurred on the property that results in the alteration of the use intensity (for example, low-volume retail to high-volume retail), or use orientation (for example, service to retail).

b. If the above two criteria are confirmed not to have existed, the use may:

i. Increase or expand in area (lot or building) not more than 50 percent in gross square footage of lot or building area; and

ii. Any noncompliant site/urban design standards existing shall be brought into compliance with overlay standards to the extent possible. Determination of the extent of compliance shall rest with the Community Development Director.

j) Development and urban design standards.

i) Building and site development standards for the UD-UAZ: University District, University Avenue Zone.

a. UAZ: Block, lot, and density standards.

| | | |
|---|---|---|
| 1 | Maximum Block Size (For new subdivisions and/or resubdivided parcels or tracts) | All new subdivisions shall require the construction of new streets that create blocks with a maximum perimeter of 2,000 linear feet. When a full block cannot be constructed, street stubs-outs to adjacent properties shall be provided to allow for the future connection and completion of the block by subsequent development. |
| 2 | Density | Up to 36 units per acre by right and up to 54 units per acre provided that outdoor space is appropriately designed into the project as defined herein and deemed acceptable by the city. Accessory units and guest dwellings are excluded from this calculation. |
| 3 | Lot Width | No minimum except as needed to meet other requirements in this section. |
| 4 | Lot Depth | No minimum except as needed to meet other requirements in this section. |
| 5 | Impervious Surfaces | No more than 90 percent of the site shall consist of impervious surfaces. |

b. UAZ: Setbacks—Primary building.

| | | |
|---|---|---|
| 1 | Front Setback—Arterials | A minimum five-foot setback is required. Within the setback, awnings, porches, window shades, bay windows among other architectural features shall be incorporated into facade design. Buildings that require a setback greater than five feet shall use that setback frontage for active or passive open space as defined herein. |
| 2 | Front Setback—Non-Arterials | A minimum five-foot setback is required. No specific architectural features are necessary in the facade design. |
| 3 | Secondary Front Setback | Five-foot minimum |
| 4 | Side Setback | Ten-foot minimum |
| 5 | Rear Setback | Ten-foot minimum |

c. UAZ: Building design (primary building).

| | | |
|---|---|---|
| 1 | Number of Floors | 3 floors maximum if single use plus an optional basement by right. BONUS: Up to four floors maximum with either open space as defined herein or mixed land use considerations incorporated into the development. Up to five floors maximum with open space and mixed land use considerations incorporated into the development. |
| 2 | Architectural Definition | Buildings over two stories shall have a well-defined base, middle, and top such that architectural details articulate the different uses at lower building levels. |
| 3 | Ground Floor Elevation | The elevation of the ground floor may be elevated a maximum of five feet above the average grade of the site along the front facade of the building. If it can be demonstrated that elevation above five feet is necessary due to floodplain or similar site issues, consideration of said elevation may be considered. If the ground floor is designed to accommodate nonresidential uses, the elevation of the ground floor should be placed near the elevation of the sidewalk to minimize the need for stairs and ADA ramps. |

| | | |
|---|---|---|
| 4 | Ground Floor Height | If the ground floor is designed to accommodate nonresidential space, the height of the ceiling (as measured from floor plate to floor plate) shall be at least 12 feet for buildings less than three floors and at least 16 feet for buildings with three or more floors. |
| 5 | Maximum Height | 75-foot maximum as measured from the average grade of the site along the front facade of the building. For buildings greater than 30 feet or two stories, the upper stories shall be stepped back from the line of the front facade to provide areas for outdoor terraces, rooftop patios, etc. |
| 6 | Maximum GFA per single use | A single use shall not exceed 15,000 square feet of GFA per building. |

d. UAZ: Frontage elements (primary building).

| | | |
|---|---|---|
| 1 | Entrance and Frontage | The primary entrance shall be located on the facade along the primary front setback. The entrance shall be located within a stoop, storefront, terrace/lightwell, gallery, or forecourt frontage. |
| 2 | Rear Access | The appearance of rear entrances should orient customers and provide safe and convenient access to the building without sacrificing the primary entrance purpose. |
| 3 | Windows, All Floors | At least 50 percent of the surface area of ground floor primary front and secondary front setback facades with storefronts shall be occupied by windows with Glazing of no less than 60 percent transparency. At least 20 percent of the surface area of all other facades shall be occupied by windows. Numerous smaller openings rather than a few large ones shall be provided along these facades in the accomplishment of this provision. Reflective, translucent or opaque glass is prohibited. |

e. UAZ: Placement of surface parking and accessory buildings.

| | | |
|---|---|---|
| 1 | Front Setback | No closer than the rear facade of the primary building(s), 40 feet, or at least 50 percent of the lot depth, whichever is less. |
| 2 | Secondary Front Setback | Eight-foot minimum—Parking lot<br>Ten-foot minimum—Accessory building |
| 3 | Side Setback | A setback is not required. No encroachment into ROW permitted. Stormwater required to be contained on subject parcel. |
| 4 | Rear Setback | A setback is not required. No encroachment into ROW permitted. Stormwater required to be contained on subject parcel. |

f. UAZ: Placement of parking structures.

| | | |
|---|---|---|
| 1 | Front Setback | A setback is not required if liner building is designed into and a component part of the parking structure (Please refer to definitions—Parking garage with liner building). If the design involves a separate parking structure from a liner building, the structure may be placed no closer than the depth of the liner building across the entire lot. Building code separation shall be required when applicable. |
| 2 | Secondary Front Setback | Five-foot minimum |
| 3 | Side Setback | Ten-foot minimum. |
| 4 | Rear Setback | Ten-foot minimum. |

g. UAZ: Building design (accessory buildings).

| | | |
|---|---|---|
| 1 | Number of Floros | One to two floors, not to exceed number of floors of the primary building. |
| 2 | Maximum Height | 24-foot maximum as measured from the average grade of the site along the rear facade of the building. |

h. UAZ: Outdoor lighting.

| | | |
|---|---|---|
| 1 | Yard or Outdoor Lighting | Ensure that any outdoor lighting follows **Sec. 38-9. Outdoor Lighting**. |

| | | |
|---|---|---|
| | | For nonresidential uses, it is recommended that the UAZ should have a lighting curfew of 12:00 a.m. or close of business, whichever is later. Appropriate security lighting is hereby authorized. |
| 2 | Public Spaces | Pedestrian scale lighting shall be installed throughout the University District. Please refer to definitions in this overlay. |

i. UAZ: Garbage, recycle, mechanical equipment, loading areas, and compost storage.

| | | |
|---|---|---|
| 1 | Allowed Locations | Garbage, recycle, and compost receptacles shall be stored within a garage, an outbuilding, or a rear or side yard that is enclosed by a wall or fence that meets **Sec. 38-8. Fencing, Screening, and Buffering**. Mechanical equipment and loading areas shall be located away from the street edge and screened from any right-of-way vantage point as applicable. |

ii) Building and site development standards for the UD-TZ: University District Transition Zone.

a. TZ: Block, lot, and density standards.

| | | |
|---|---|---|
| 1 | Maximum Block Size (For new subdivisions and/or resubdivided parcels or tracts) | All new subdivisions shall require the construction of new streets that create blocks with a maximum perimeter of 2,000 linear feet. When a full block cannot be constructed, street stubs-outs to adjacent properties shall be provided to allow for the future connection and completion of the block by subsequent development. |
| 2 | Density | 10 minimum to 24 maximum units per acre by right. Accessory units and guest dwellings are excluded from this calculation. |
| 3 | Maximum Lot Width | 100-foot maximum (as measured along the front property line) |
| 4 | Lot Depth | No minimum except as needed to meet other requirements in this section. |
| 5 | Impervious Surfaces | No more than 80 percent of the site shall consist of impervious surfaces. |

b. TZ: Setbacks—Primary building.

| | | |
|---|---|---|
| 1 | Front Setback—Arterials | A minimum five-foot setback is required. Within the setback, awnings, porches, window shades, bay windows among other architectural features shall be incorporated into facade design. Buildings that require a setback greater than five feet shall use that setback frontage for active or passive open space as defined herein. |
| 2 | Front Setback—Non-Arterials | A minimum five-foot setback is required. No specific architectural features are necessary in the facade design. |
| 3 | Secondary Front Setback | Five-foot minimum |
| 4 | Side Setback | Ten-foot minimum |
| 5 | Rear Setback | Ten foot minimum |

c. TZ: Building design (primary building).

| | | |
|---|---|---|
| 1 | Number of Floors | Three floors maximum if single use plus an optional basement by right. BONUS: Up to four floors maximum with either open space as defined herein or mixed land use considerations incorporated into the development. |
| 2 | Architectural Definition | Buildings over two stories shall have a well-defined base, middle and top such that architectural details articulate the different uses at lower building levels. |
| 3 | Ground Floor Elevation | The elevation of the ground floor may be elevated a maximum of five feet above the average grade of the site along the front facade of the building. If it can be demonstrated that elevation above five feet is necessary due to floodplain or similar site issues, consideration of said elevation may be considered. If the ground floor is designed to accommodate nonresidential uses, the elevation of the ground floor should be placed near the elevation of the sidewalk to minimize the need for stairs and ADA ramps. |
| 4 | Ground Floor Height | If the ground floor is designed to accommodate nonresidential space, the height of the ceiling (as measured from floor plate to floor plate) shall be at least 12 feet for buildings less than three floors and at least 16 feet for buildings with three or more floors. |

| | | |
|---|---|---|
| 5 | Maximum Height | 35-foot maximum as measured from the average grade of the site along the front facade of the building. For buildings greater than 30 feet or two stories, the upper stories shall be stepped back from the line of the front facade to provide areas for outdoor terraces, rooftop patios, etc. |
| 6 | Maximum GFA per single use | A single use shall not exceed 10,000 square feet of GFA. |

d. TZ: Frontage elements (primary building).

| | | |
|---|---|---|
| 1 | Entrance and Frontage | The primary entrance shall be located on the facade along the primary front setback. The entrance shall be located within a stoop, storefront, terrace/lightwell, gallery, or forecourt frontage. (Buildings on corner lots: Primary frontage is the facade that faces the street that corresponds to the property address.) |
| 2 | Windows, All Floors | At least 50 percent of the surface area of ground floor front and external side facades with storefronts shall be occupied by windows. At least 20 percent of the surface area of all other facades shall be occupied by windows. Numerous smaller openings rather than a few large ones shall be provided along these facades in the accomplishment of this provision. Reflective, translucent, or opaque glass is prohibited. |

e. TZ: Placement of surface parking and accessory buildings.

| | | |
|---|---|---|
| 1 | Front Setback | No closer than the rear facade of the primary building(s), 40 feet, or at least 50 percent of the lot depth, whichever is less. |
| 2 | Secondary Front Setback | Eight-foot minimum—Parking lot<br>Ten-foot minimum—Accessory building |
| 3 | Side Setback | A setback is not required. No encroachment into ROW permitted. Stormwater required to be contained on subject parcel. One-hour fire-rated wall required pursuant to the building code. |
| 4 | Rear Setback | A setback is not required. No encroachment into ROW permitted. Stormwater required to be contained on subject parcel. One-hour fire-rated wall required pursuant to the building code. |

f. TZ: Placement of parking structures.

| | | |
|---|---|---|
| 1 | Front Setback | A setback is not required if liner building is designed into and a component part of the parking structure (please refer to definitions - Parking garage with liner building). If the design involves a separate parking structure from a liner building, the structure may be placed no closer than the depth of the liner building across the entire lot. Building code separation shall be required when applicable. |
| 2 | Secondary Front Setback | Five-foot minimum |
| 3 | Side Setback | Ten-foot minimum. |
| 4 | Rear Setback | Ten-foot minimum. |
| 5 | Exceptions | Setbacks for podium and underground parking levels may have the same setbacks as the building. Screening requirements in **Sec. 38-8.E.5. Parking Structures** apply to structures proposed in the Transition Zone (TZ) adjacent to NH Districts located outside the UD Overlay. For purposes of buffer requirements, the use on parcels shall be the primary determining factor in buffer requirements. |

g. TZ: Building design (accessory buildings).

| | | |
|---|---|---|
| 1 | Number of Floors | One to two floors, not to exceed number of floors of the primary building. |
| 2 | Maximum Height | Twenty-four foot maximum as measured from the average grade of the site along the rear facade of the building. |

h. TZ: Outdoor lighting.

| | | |
|---|---|---|
| 1 | Yard or Outdoor Lighting | Ensure that any outdoor lighting follows **Sec. 38-9. Outdoor Lighting**. |

| | | |
|---|---|---|
| | | For nonresidential uses, it is recommended that the TZ should have a lighting curfew of 10:00 p.m. or close of business, whichever is later. Appropriate security lighting is hereby authorized. |
| 2 | Public Spaces | Pedestrian scale lighting shall be installed throughout the University District. |

iii) TZ: Garbage, recycle, mechanical equipment, loading areas, and compost storage.

| | | |
|---|---|---|
| 1 | Allowed Locations | Garbage, recycle, and compost receptacles shall be stored within a garage, an outbuilding, or a rear or side yard that is enclosed by a wall or fence that meets **Sec. 38-8. Fencing, Screening, and Buffering**. Mechanical equipment and loading areas shall be located away from the street edge and screened from any right-of-way vantage point as applicable. |

iv) Building and site design standards for the UD-CZ: University District Convention Zone.

a. Civic standards.

i. Introduction. Civic buildings are buildings operated by not-for-profit organizations (including governmental organizations) that are dedicated to arts, culture, education, recreation, government, transit, and or for use approved by the legislative body. The above uses with a religious foundation are not considered civic buildings.

b. Standards. The following standards apply to civic buildings:

i. Civic buildings should be architecturally distinctive, designed appropriately for their function, and designed with outdoor gathering spaces.

ii. Civic buildings may be located within civic spaces.

iii. Civic buildings shall not be subject to the standards of this article (Building Standards). The particulars of their design shall be determined by the University District Citizens Design Review Committee (UD-CDRC) and as required by the director.

c. Historic building standards.

i. Introduction. Historic buildings are structures that are listed on the National and/or New Mexico Registers of Historic Places.

ii. *Standards.* The following standards apply to historic buildings:

(a) Uses for historic buildings and properties shall comply with **Figure 36-2-32. UD Overlay Permitted Uses**.

(b) Alterations and additions to historic buildings shall comply with the Secretary of the Interior's Standards for Rehabilitation.

v) Landscaping—*All zones.* All landscape planting should serve to enhance the architectural value of the building, ground the building in the site, create a pleasant and attractive environment for pedestrians, and mitigate environmental conditions such as excess heat, strong winds, and air pollution.

a. Purpose. Landscaping standards are established for this district to create a more comfortable environment for pedestrians and transit users; to achieve the intended character of a walkable district that meets the desires of the community; and provide stormwater management by reducing runoff and improving water quality by filtering runoff before it enters the collection system. Where City uses of easement area or right-of-way requires displacement of landscaping or damage to drainage ponds, the City shall replace or repair those pond and landscaping elements to the extent possible as determined by the City.

b. Applicability. The provisions of this section shall supersede other landscaping requirements within the Municipal Code, where conflict in regulation exists, as it applies to the landscaping of the University District only.

c. Landscaping standards apply to all development in the University District with the exception of properties that are occupied by single-family residences. Landscape consists of native or drought-tolerant species of both overstory (shade and coniferous trees) and understory plantings of ornamental trees, shrubs, cacti and perennial grasses, groundcovers, and flowers, the standards for which apply to the entire site and parking lot area, excluding building area.

   i. Landscaping for new development within the University District shall comply with principles of water conservation that address:

      (a) Planning and design;

      (b) Soil improvements;

      (c) Efficient irrigation;

      (d) Zoning of plants;

      (e) Mulches;

      (f) Turf alternatives; and

      (g) Appropriate maintenance. (Please refer to Curtis Smith's article, Principles of Xeriscape.)

d. Area to be Landscaped. The required area to be landscaped is equal to a minimum of 20 percent of the total parking area. For the purposes of this article, the parking area shall be defined as the surface area of the entire tract of land excluding the building pad.

   i. Parking bays in excess of ten spaces in length should be divided by intermittent landscape islands. Landscape islands shall be no less than six feet by six feet for each tree and accompanying groundcovers.

   ii. One tree shall be planted in the parking lot area for every five parking spaces. Each tree shall be planted in an area that is no less than six feet by six feet.

   iii. A landscape buffer no less than eight feet wide should be provided between all parking areas and the sidewalk or street, the purpose of which is to screen parked vehicles from view from the street. The buffer strip should contain a mix of shade trees, low shrubs or perennial flowers, boulders and may include a decorative fence that ensures visibility. (Please refer to fencing in section J. Development and urban design standards.) If a solid wall or dense hedge is used it should be no less than 18 inches and no more than four feet (48 inches) in height to allow views into and out of parking areas. If a berm is used, the slope should not exceed 20 percent (5:1).

   iv. In parking lots larger than one acre or 200 feet or more wide, walkways are required that link perimeter sidewalks to primary building entrances.

   v. Green roofs (please refer to **Sec. 36-2.D.5.f) Definitions**) may be used to meet minimum landscape requirements at a 1:1 ratio excluding the above listed requirements for landscaping parking lots.

e. Installation. The irrigation system and landscaping shall be installed before the completion of building construction and prior to the issuance of a certificate of occupancy unless a temporary certificate of occupancy or other written agreement has been arranged with the city. Such agreements extending the time of installation will be for a maximum period of nine months. (Ord. No. 978, § 4.6, 6-20-88)

f. The total required landscape area shall be evenly distributed throughout the site. Businesses offering outdoor seating within their front setbacks may reduce the required landscaping, subject to review by the city and the citizen's design review committee (to be discussed later in this Code).

g. Plants at the time of installation shall be sized and quantities shall be defined according to the following: Two 2¼-inch caliper tree, five 15-gallon shrubs, and a choice of either five one-gallon shrubs or 50 square feet of groundcover, for every 500 square feet of lot area excluding building area and parking lot area.

h. Trees shall include shade producing trees which achieve a mature size of at least 25 feet high and 25 feet spread and ornamental trees which have particular features such as spring blooms, fall foliage color or bark characteristics. Evergreen trees such as pines, junipers, and cypress are also allowed. Shrubs shall include a mix of deciduous and evergreen plants including plants native to the Chihuahuan Desert and others adapted to our climate. Groundcovers shall serve to prevent soil erosion, provide color, and create an oasis feeling.

vi) Fencing, walls and retaining walls—General all zones.

a. Existing noncompliant fences and walls within the district may remain in place so long as they conform to existing City ordinances regarding permitting, height and placement. Increases in structure height or length shall require full compliance with fencing/wall requirements.

b. New fences/walls shall be of a generally "open" design to maintain visibility from the street. As an example, an open fence including gates has for each one-foot wide segment 60 percent of the surface area in open spaces which afford a direct view through the fence. Picket, post and rail, tubular steel and wrought iron are examples of acceptable open fencing. A base not greater than three feet in height may be used in combination with the "open" design. Chain link fencing is prohibited. All fences/walls in front yards must be "open" by design. A "closed" fence/wall is defined as a structure, including gates, which conceals from view from adjoining properties, streets, or alleys, activities conducted behind it. "Closed" fences/walls may only be constructed in side and rear yards. They are not allowed in front yards.

c. Fences, walls and hedges within the primary front yard (where primary front yard setback is determined) shall be limited to a height of four feet. The design of manmade structures shall conform to the provisions found in **b** above.

d. Fences, walls and hedges that are within five feet of the secondary front property line (side where secondary front yard setback is determined) shall be limited to a height of four feet. If the fence, wall or hedge is setback at least eight feet from the property line, the maximum height shall be limited to height of eight feet. The design of man-made structures shall conform to the provisions found in **b** above.

e. Fences, walls, and hedges that are within the rear and side yards shall be limited to a height of eight feet.

f. Retaining walls used within the various districts shall be designed in a manner limiting their height to what is absolutely necessary for the retaining purpose intended.

vii) Signage—All zones.

a. Purpose. The University District Overlay Sign Code shall be established for aesthetics, height, overall size, type, and lighting considerations for signage consistent with district urban design standards.

b. Attached signage. Only window, wall, awning signs and multi-use development directory signs are allowed. Awnings and the attached signs are subject to the design standards of all applicable codes.

i. Wall signs: Flush-mount:

(a) Commercial/nonresidential development.

- No wall sign shall project beyond the ends of the wall or beyond the top of the building to which it is affixed.
- Walls signs shall be affixed flat against the building wall. Any necessary frame mounting shall not extend more than six inches from the wall.
- Wall signs shall be placed on the ground floor of the structure in which the use takes place.
- No more than three wall signs shall be allowed per building facade in buildings with more than one business or use.

- No more than one wall sign shall be allowed per business or use per building facade. When there are more than three business occupants per building refer to the multi-use development directory sign standards of this section.
- One square foot of signage for each linear foot of exterior wall space, not to exceed 50 square feet per wall. The sign(s) shall be placed on the side of the building used to calculate the square footage of the sign. For buildings that are set back 100 or more feet from the sidewalk, signage may exceed the 50-foot maximum as determined by the Community Development Director.

(b) Multifamily residential development.

- Up to two wall signs, not to exceed 32 square feet each, with the name, logo, and associated graphics on a building containing eight or more residential units.
- Only one sign is allowed per wall. These attached signs are subject to the design standards of all applicable codes.

ii. Wall signs: Projecting:

(a) Projecting signs shall be considered double-faced signs with each sign face of equal size.

(b) Projecting signs shall not exceed 12 square feet in sign face area (six square feet per sign face).

(c) Only one projecting sign shall be allowed per business per street frontage.

(d) Only ground floor commercial businesses shall be permitted to utilize projecting signs.

(e) Projecting signs must maintain at least eight feet of clearance as measured from the bottom of the sign to grade and may project no more than four feet from the building or closer than two feet to the edge of the sidewalk, whichever is less.

(f) Projecting signs shall be installed at right angles to a building front.

iii. Window signs:

(a) There shall be no more than one permanent window sign per window.

(b) Neon signs displayed indoors constitute permanent window signs. Only one neon sign shall be permitted per business facade.

(c) The total coverage of all permanent, neon, and temporary window signs shall not exceed 25 percent of the total glass area of the window.

iv. Awnings and canopies:

(a) Awnings and canopies shall be supported solely by the building to which they are attached and no columns or posts shall be permitted as supports.

(b) No portion of an awning or canopy shall be less than eight feet above grade. However, if the awning and canopy extends beyond four feet between the building and curb, it must be 12 feet above grade.

(c) The roofs of all awnings and canopies shall be used for no other purpose than to form and constitute a roof. The roofs of all awnings and canopies shall not drain directly or into the public right-of-way. The roofs of all awnings and canopies shall be constructed in accordance with the building code.

(d) Awnings and canopies shall be designed to withstand a wind speed of not less than 90 miles per hour.

(e) Awnings and canopies shall not interfere with street trees or traffic signs.

(f) No advertising shall be placed on the awning or canopy except the name or logo of the owner, business or industry conducted within the premises, address of the building, or the building name.

(g) Lettering or logos shall be painted or otherwise permanently affixed in letters not exceeding 20 inches in height on the front and side portions thereof.

(h) Translucent awnings and canopies are not permitted.

(i) Any awning or canopy that encroaches into the public right-of-way shall obtain an approved encroachment agreement from the City's land management department prior to placement and use of the awning or canopy and comply with chapter 32 of the International Building Code, as adopted by the City.

v. Multi-use development directory sign. Exterior directory signs, with the name and location of all businesses within a multi-use development, shall be wall-mounted as specified above. One square foot of signage is allowed for each linear foot of exterior wall space, not to exceed 50 square feet per wall. The sign(s) shall be placed on the side of the building used to calculate the square footage of the sign.

c. Freestanding ground signage—All development.

i. Ground signs shall be the only freestanding signage permitted within the district.

ii. One ground sign is allowed per lot. The ground sign shall identify the primary tenant, the name of the business center or the name of the residential units.

iii. Individual ground signs shall be limited to properties which own direct, unobstructed (on-site) access to a public street.

iv. Ground signs shall not exceed 24 square feet in area, and shall not exceed three feet in height. Signs shall be placed at least five feet from the outside edge of the right-of-way, and at least five feet from adjacent property lines and not within the clear sight triangle as defined by **Sec. 38-2.H. Clear Sight Triangle**.

d. Design standards.

i. The silhouette, shape, and materials of signs in the University District Overlay shall be simple and compatible with the building or facade to which they relate.

ii. Freestanding signs shall not be placed so they obscure important architectural features such as entrances, display windows, or decorative cornices when viewed from the right-of-way.

iii. Attached signs shall not disrupt the architectural composition of the building facade. No part of any attached sign shall overlap or cover architectural features of the building such as cornices, eaves, window and door frames, columns, vigas, and other decorative elements.

iv. Signs within a business center shall be compatible with the architectural character of the center.

v. The number of different lettering styles or fonts on a sign shall be kept to a minimum, and shall relate to the architectural character of the property. Lettering and copy shall not be crowded onto a sign and shall leave ample space around the copy to preserve legibility.

vi. The visual appearance of signs shall reinforce the architectural character of the site.

vii. Illumination:

(a) Signs that are illuminated shall have concealed lighting fixtures with the exception of LED and neon.

(b) No reflectors, arms, fixtures or wires shall be visible from the street.

(c) Internally illuminated signs shall not be permitted.

(d) No sign shall be illuminated to create a nuisance, traffic hazard or excessive glare to adjacent property and shall comply with **Sec. 38-10.I.3. Sign Lighting** to prevent illumination of the night sky so as to lessen light pollution. Please refer to **Sec. 38-2.I. Streetlighting** and **Sec. 38-9. Outdoor Lighting**.

(e) Freestanding signs shall be landscaped at their base in a manner that is compatible with the character of the site. Landscaping shall form an attractive cluster at the base of the sign.

(f) The top of any sign shall not exceed 20 feet above grade.

e. Temporary promotional banners and pole banners.

i. Building-mounted banner displays*:* In addition to permitted permanent signage, businesses and organizations in the University District Overlay are allowed temporary, promotional displays in the form of a banner for promotional purposes that are subject to the following conditions:

(a) Each business and organization, with the exception of those within the convention zone, shall be permitted one banner three times during each calendar year for a maximum of ten consecutive days each or for a maximum of 30 consecutive days. Due to the nature of the convention zone and the number of special events, banners are expected to change more frequently than three times during each calendar year.

(b) Only one banner per business or organization may be displayed at a time.

(c) Banners shall be made of a durable material that may include 12- to 16-ounce weight materials, such as, nylon or vinyl reinforced canvas. Banners must have hemmed and reinforced edges. Grommets should be located on the banner's edge to allow it to be securely fastened to its supporting structure. If grommets are not used, some other mechanism such as rope shall be placed within the hem to allow for its attachment.

(d) Banners may not exceed 25 square feet in area.

(e) Banners shall be securely attached to a permanent building.

(f) The applicant shall provide to the Community Development Director the name and address of the business/organization where the banner is to be placed, the first day the banner is to be displayed, the date it is to be removed, the size of the proposed banner, and its design.

(g) Banners may be erected only when a sign permit has been issued. All banners shall be removed not later than the permissible time limit stated above. Failure to do so may forfeit the ability to use these provisions in the future. A permit will be issued to the applicant and will remain in effect for the duration of that event.

ii. Pole banners*:* Banners may be placed on city-owned utility and light poles promoting city-sponsored events and/or messages with approval by the city manager or his/her designee. (For the purposes of pole banners, a City-sponsored event shall be defined as an event for which the City of Las Cruces donates money and/or services/personnel.) Examples of these types of messages include: "Las Cruces Sparkles on the 4th of July" and "Happy Holidays". Other governmental entities, such as New Mexico State University, may also place banners on City-owned utility and light poles that display a community-wide message and are approved by the city manager or his/her designee. Examples of these types of messages include: "Go Aggies!" and "Welcome Back to School!" Approval with New Mexico State Highway Department will also be required when appropriate. To place banners on City-owned utility and light poles, arrangements shall be made through the traffic engineering section of the public works department. Fees may be imposed to offset expenses.

f. Prohibited signs*:* The following signs are prohibited in the University District Overlay:

i. Portable and pole signs, whether temporary or permanent.

ii. Permanent banners.

iii. Pennants, streamers, and other fluttering devices, whether temporary or permanent.

iv. Temporary Ground Signs (e.g., real estate, political, construction, contractor, and "coming soon" signs) over 12 square feet in area or over five feet tall.

v. Billboards and all other off-premises signs.

vi. All other signs as prohibited in **Sec. 38-10.D. Prohibited Signs**.

g. *Applicability:* Where there are areas concerning signage not addressed by the University District Sign Code, **Sec. 38-10. Signs** shall apply.

k) Transportation (streets and public spaces).

i) Right-of-way improvements (traveled way, roadside and intersections) throughout the district shall be in accordance with the City's Active Transportation Plan and Complete Streets Ordinance. (Please refer to City Council Resolution No. 19-059 and Ordinance No. 2993.)

ii) Project initiation and preliminary engineering shall be initiated at the earliest opportunity for right-of-way improvements to the traveled way, roadside, and intersections of University Avenue between Interstate 25 and Interstate 10.

iii) Future amendments to this section are anticipated and shall convey design parameters for University Avenue as a walkable thoroughfare.

iv) Callecitas shall be considered and alleys shall be preserved, whenever possible, for improving pedestrian connectivity and providing vehicular access to properties. (Please refer to **Sec. 36-2.D.5.f) Definitions**.)

l) Parking, general—All zones.

i) Parking requirements.

a. Parking ranges are set for land uses in each zone, as noted in **Sec. 36-3.A.1. Permitted Use Chart**. Requests to reduce parking requirements shall be evaluated on a case-by-case basis by the Community Development Director. Requests to exceed maximum parking requirements shall be granted for parking structures that meet the development and urban design standards set forth in this Code.

b. Shared parking and access agreements among neighboring properties are encouraged and will count toward off-street parking requirements. **Sec. 38-2.N.4.c)ii) Shared and Joint Use of Parking Areas** dictates the requirements for this application.

c. Off-street parking requirements can be met by entering into a shared parking agreement within one-fourth mile, as measured along the street network and pedestrian right-of-way, that shall be used to identify how parking demand will be met and which properties are involved.

d. All standards for parking dimensional and ADA requirements for all development within the district shall be consistent with **Sec. 38-2.N. Off-Street Parking**.

e. All vehicles are to be parked along designated streets, in designated driveway or parking areas only. Parking on front lawns and/or landscaped areas shall be prohibited.

ii) Parking options: (Please refer to **Sec. 36-2.D.5.g) Permitted Uses** for allowed parking locations.)

To reduce development costs, parking garages are not required. Parking may be provided within an attached garage, detached garage, parking structure with or without liner building, or surface parking lot. Parking for nonresidential uses may also be provided off-site in a public parking lot or structure if a parking management district is formed for the area. Dedicated surface parking areas shall meet the landscape requirements of **Sec. 36-2.D.5.j) Development and urban design standards.** of this overlay.

iii) Parking access:

Alleys. Alleys are required for projects that create new blocks to provide access to parking areas and to minimize driveway curb cuts along streets. Alleys are encouraged (but not required) for projects on existing

blocks to provide access to parking areas. Driveway access from the street is only allowed on lots where an alley cannot be provided.

Driveways. Driveway width shall comply with City design standards.

Pedestrian connectivity. In parking lots larger than one acre or equal to or greater than 200 feet wide, walkways shall link perimeter sidewalks to primary building entrances.

Parking prohibition. A parking management plan would improve mobility and access to shops and business centers as well as controlling the amount of land dedicated to surface parking lots and parking structures. Until a parking management plan is adopted, parking shall be prohibited from 8:00 a.m. to 5:00 p.m., Monday through Friday, on the following streets:

Chaparral St. between University Ave. and Plain St. (east side only);

Hagarty Ave. between University Ave. and Plain St. (west side only);

Mesa St. between Jordan St. and Espina St. (south side only).

m) Demolition. To preserve any contributing structure listed on the historic register (state or national) in the University District Overlay; this section creates a 60-day demolition permit review process that allows time for interested parties to explore alternatives to the demolition of historic structures. Demolition for all other structures shall follow Chapters 30-491.

i) Demolition permit. Demolition permit applications shall be submitted to the Community Development Department prior to any demolition activity taking place. Community Development Department staff will review the application for compliance with this Development Code, as amended. A proposal for redevelopment of the property must accompany the permit application.

ii) Posting. At the beginning of the 60-day demolition permit review process, the Community Development Department will issue a sign that is to be posted in a conspicuous place on the property. The applicant is responsible for posting the sign and ensuring that it is in place for the entire 60-day period.

iii) At the beginning of the 60-day demolition permit review process, the Community Development Department will inform the neighborhood associations, the New Mexico Historic Preservation Division, and the Dona Ana Historic Society that a demolition permit has been applied for.

iv) A demolition permit shall be issued upon the completion of the following items: 1) the completion of the 60-day period; and 2) the application meets all City Code requirements and has been approved by the Community Development Department staff. (The applicant may use the 60-day time period to resolve any necessary code compliance comments.) The permit application may be withdrawn by the applicant at anytime without charge.

v) Prior to the demolition of a historic structure, the applicant shall be responsible for fully documenting the structure, both interior and exterior, to provide a permanent record, in accordance with documentation procedures as follows. The demolition permit will not be approved without submittal and approval of this documentation by community development staff.

a. Complete the Historic Cultural Property Inventory (HCPI) forms 1 and 2;

b. Photograph the property:

i. Photo processing, printing and labeling shall follow the protocol established by the National Parks Service; please refer to the National Register Photo Policy Fact Sheet.

ii. Take several exterior photos of the primary structure (front, rear, sides, close-up views, details, setting, etc.) and exterior photos of each historic secondary structure, such as a garage, sheds, etc. (Accessory buildings that are not listed on the historic register should not be included.) For assistance in taking quality photographs, please refer to NPS Bulletin #23 at the link listed above.

iii. Include several interior photos of the primary structure, with attention to any distinctive architectural or historic features (vigas, carvings, coping, special flooring, bullet holes, etc.)

iv. Staff strongly suggests that wide-angle camera lenses not be used for exterior photographs since these lenses tend to distort vertical dimensions of buildings. A perspective-correction lens is highly recommended for best results.

v. The submitted photo packet must include one set of black and white (B&W) photographs and full-color digital images. Printed size may be 3½ × 5; 4 × 6; or 5 × 7.

vi. Include a continuation sheet that provides information common to all photographs, followed by a list providing information pertinent to each photograph.

vii. The file name for each electronic image must correspond with the photo log included on the continuation sheet and the information labeled on the back of each photograph, and reference the county and state in which the property is located.

viii. All photographs and media (e.g., USB drive) with electronic files must be put into a folder with the property name, location, and the date the photographs were taken.

c. If measured drawings done by the Historic American Building Survey exist, the owner should annotate the drawings, showing changes to the property, interior and exterior, that have occurred up to the current date.

d. If known, a short history of the property should be included, in order to document how that property fits within the historic district or community.

e. The demolition permit will not be approved without submittal and approval of this documentation by Community Development staff.

vi) Compliance with the procedure set out in this section is not required if it is determined by the City of Las Cruces that the immediate demolition of a historic structure is in the best interest of public health, safety, and welfare. The applicant shall be responsible for documenting the structure in accordance with the procedure above to fully demonstrate the need for demolition and to provide a record of the structure. In the event that entering the structure would pose a threat to the health, safety and welfare of the documenter, interior photos are not required. This documentation must accompany the memo of determination for demolition by the building official prior to the issuance of a demolition permit.

n) Administration. Submittal and review process.

i) Purpose. Submittal and review procedures are established for all new development to protect persons and property in the University District Overlay as directed in the University District Plan.

ii) Subject to review by the Citizens' Design Review Committee (UD-CDRC).

a. Subdivisions. For submittal and review of subdivisions within the district, refer to **Sec. 37-2. Subdivision Procedures**.

b. Buildings.

i. Pre-application conference: Prior to filing an application for development of new buildings in the district, the applicant is encouraged to meet with staff of the City Community Development Department to review the proposed project. At this conference, staff shall review the development proposal and advise the applicant concerning the compatibility of the proposal with the intent and standards of the University District Plan and all other applicable City codes.

ii. Application procedure*:* Upon completion of the pre-application conference, the applicant shall submit at minimum, one copy of all application materials for new development to the Community Development Department for review. Upon submittal, staff shall review the submittal for completeness. If all the required items have been submitted, the Community Development Department shall issue a receipt for submittal.

iii. University District Citizens' Design Review Committee (UD-CDRC): Applicants shall meet with the UD-CDRC and City staff at a public meeting for a formal recommendation by the UD-CDRC regarding the proposed project.

iv. Final approval*:* An application shall be effective for no more than one year from the date of approval. If development proposed by the application has not been initiated within the one year stipulated, the application must be resubmitted for approval as established in this section. The applicant may submit a request for extension of approval prior to the expiration date, if desired. The request will be reviewed by the Community Development Department.

c. Variances*.* Variances in the numerical requirements for development within the district will be considered in accordance to fulfilling the policies of the University District Plan and not contradictory to the policies therein. Variances may be granted by the Planning and Zoning Commission at a public meeting in accordance with **Sec. 36-5.F. Zoning Variances**.

i. An application for a numerical variance will be processed by applicable City departments and the Citizen's Design Review Committee.

ii. Applicants must present their request to the citizen's design review committee for their recommendation to the Planning and Zoning Commission. Recommendations from the UD-CDRC shall be delivered to the Planning and Zoning Commission prior to the public meeting.

iii. Decisions of the Planning and Zoning Commission may be appealed to City Council, in accordance with **Sec. 34-3.F. Appeals**.

d. Special use permit (SUP). The Community Development Director determines SUP needed for uses not listed in this overlay.

e. Zone change*.* Applicants must present requests for zone change to the citizen's design review committee for the committee's recommendation to the Planning and Zoning Commission. Recommendations from the design review committee shall be delivered to the Planning and Zoning Commission prior to the public meeting. Decisions of the Planning and Zoning Commission may be appealed to City Council in accordance with **Sec. 34-3.F. Appeals**.

f. Plan amendments, code amendments. Applicants must present requests for plan amendments and code amendments to the University District Citizen's Design Review Committee (UD-CDRC) for the committee's recommendation to the Planning and Zoning Commission. Such requests will be considered once a year at the January meeting of the UD-CDRC. An exception to the once-a-year rule and expedited review applies to cases deemed necessary by the city in order to ensure successful implementation of the goals and objectives of the plan and ordinance where there is direct conflict between the plan and overlay. The UD-CDRC will determine which amendments may be processed gratis; all others incur a fee established by Resolution No. 00-360, July 3, 2000. Recommendations from the UD-CDRC shall be delivered to the Planning and Zoning Commission prior to the public meeting. Recommendation of the Planning and Zoning Commission are made to City Council which makes the final decision.

g. Property alteration, remodel or renovation. Any related activities to existing buildings within the district shall require review by the Community Development Department and the citizen's design review committee to ensure that the building and the property of the site will be brought into conformance with all applicable urban design standards of the University District Plan and this section.

A portion of the submittal requirements may not be required in all renovation cases. Upon receipt of a written request justifying the deletion of required information, the Community Development Department may waive any submittal requirement.

iii) Courtesy review of NMSU projects. Although NMSU is neither within the City limits, nor subject to its jurisdiction, the campus and City share a stake in development along University Avenue and in the region as a whole. As such, the UD-CDRC respectfully requests "courtesy design review" of the university's projects, particularly those planned for and close to University Avenue.

iv) Subject to administrative review by Community Development Department staff.

a. Request to vacate alley;

b. Signs;

c. Minor modifications. A modification or change to a property that is less than a cumulative total of 15 percent of gross floor area, nor exceeds a cumulative total of $25,000.00 in valuation.

v) Application materials and fees. Applications for development in the University District Overlay shall be obtained from the community development department. All applicants with submittals requiring public notice, such as new development and/or property renovation, shall be required to submit a development statement with their application. Development statement forms may be obtained from the community development department. Application and permitting fees are waived for development in the University District. Requirements for applications for all types of development shall include the following:

a. A letter of intent stating the following:

i. A statement of the purpose and use of the property.

ii. All property improvements to be made.

iii. A statement of the sustainable building practices to be employed.

iv. A development schedule indicating the approximate dates at which construction or phases of construction will begin and end.

b. A boundary survey as prepared by the appropriate licensed professional that is accurate and complete shall be made of the land to be developed. Property lines shall be shown giving the bearings in degrees, minutes and seconds. Distances shall be shown in feet and hundredths. Curved boundaries or lines on the survey shall provide sufficient data to enable the re-establishment of curves on the property. The location and description of all monuments set or found shall be included when applicable.

c. Site plan. The site plan shall be at a scale that adequately represents the information. Copies provided shall be legible and of a good quality, with no limit to the number of sheets used. The plans shall indicate the following:

i. Title of site plan.

ii. Total acreage of site.

iii. Date of preparation, north arrow, written and graphic scale.

iv. Identification of district planning area.

v. Identification of site by lot, block, subdivision, if applicable.

vi. A statement of ownership, signed by the property owner.

vii. Name and address of property owner.

viii. Name and address of applicant, if applicable.

ix. Name and address of consulting firm or representative, if applicable.

x. Location and type of all land uses.

xi. All site improvements with all setbacks indicated.

xii. Dimensions of all buildings.

xiii. Existing and proposed vehicular circulation systems, including parking areas, storage areas, service areas, loading areas, and major points of access, including street pavement width and right-of-way.

xiv. A landscaping plan, to include the location, size, common name, and biological name of all landscaping materials.

xv. Where applicable, pedestrian and bicycle circulation system, and its relation to surrounding circulation.

xvi. Where applicable, location and arrangement of all open space, common recreational space, and private open space.

xvii. Architectural renderings or artistic drawings. Copies provided shall be legible and of a good quality, with no limit to the number of sheets used. The drawings shall illustrate the following:

(a) All new development illustrating all exterior building design, materials, and colors.

(b) All new development illustrating relationships to neighboring uses, including site lighting.

(c) Sign location, materials, color, size, shape and lighting.

(d) Quality of materials: Application materials that are illegible and/or otherwise of a low quality will not be accepted.

d. Three-dimensional model. For projects proposed in the convention zone (CZ), provide computer-generated or physical modeling to enhance public understanding and review of the buildings within the context of the district as a whole.

e. *Waivers.* A portion of the submittal requirements may not be required in all development cases. Upon receipt of a written request justifying the deletion of required information, the community development department may waive any submittal requirement.

o) Enforcement of overlay zone district. Provisions to enforce this section shall be consistent with the enforcement provisions of **Sec. 34-1.H. Violations and Enforcement**.

## E. DDC, Downtown Development Code

1. Purpose

   The purpose of this section and the zoning districts defined herein is to accommodate government facilities, retail, office, residential, and other similar uses in the Downtown area of the City with appropriate height, yard, and intensity standards to allow for a higher density and intensity of development. Further, the properties described within the Main Street (MS) zoning district are identified as a special area within the Downtown to encourage revitalization through incentives and clearly defined development standards. See **Figure 36-2-33. Downtown Regulating Plan** for the district boundaries, See **11. MS Architectural Standards** for development standards that apply to the MS district only.

   a) The Downtown Development Code is designed to foster infill redevelopment in a mixed-use pattern as part of a vibrant, diverse downtown.

   b) This Section is intended to promote traditional urban form and a lively mix of uses, allowing for shopfronts, sidewalk cafes, and other commercial uses at the street level, with wide sidewalks and shade trees, overlooked by upper story residences and offices. It also provides a setting for major activities that benefit the community such as markets, festivals, and entertainment.

   c) A range of open spaces should be distributed within adjacent neighborhoods and throughout downtown.

   d) Buildings and landscaping should contribute to the physical definition of thoroughfares as civic places.

   e) The transect designations in **2. Zoning Districts** below shall describe the general character of downtown.

2. Zoning Districts

   Zoning districts are limited to the following transect designations:

   a) Downtown (DT): This district consists of higher-intensity mixed-use buildings that accommodate retail, offices, institutional, and residences. The thoroughfares have wide sidewalks with street trees, and buildings are set close to the sidewalks.

   b) Main Street (MS): This district is similar in use and character to DT, but the massing and proportions are in harmony with an urban core.

   c) General Urban (GU): This district includes a mix of uses, but is primarily in the form of medium-intensity mixed use structures. It may have a wide range of building types: residences, live-work units, commercial buildings, theaters, and mixed-use buildings. The thoroughfares have wide sidewalks and buildings are set close to the sidewalks.

3. Downtown Regulating Plan

   a) The regulating plan is the zoning map and principal tool for implementing the Downtown Master Plan, as amended. It identifies the transect district for the building site (See **Figure 36-2-33. Downtown Regulating Plan**) which regulates standards for each lot.

   b) New development in Downtown shall provide sidewalk improvements, civic spaces as needed, and contribute to a shared parking and access strategy to create a complementary pattern for growth and development. The rules below will enhance a compact, economically sustainable, mixed-use downtown that complements the adjacent neighborhoods and provides flexible opportunities for residential, employment, government, institutional, and commercial uses.

   c) Where present, alleys shall provide access to the rear of all lots. Alley dedication and construction within the rear setback is required as part of a redevelopment project if they do not exist. Alleys shall be constructed pursuant to **17. Streetscape** and **Sec. 38-2.E.7. Alleys**.

4. Instructions

   a) Find the transect zone for your parcel in **Figure 36-2-33. Downtown Regulating Plan**.

b) Site and building plans submitted under this Section shall include the following, in compliance with the standards described in this Section:

i) Site Plan/Building Placement (See **6** below)

ii) Building Specifications including floor plans (See **7** through **10** below)

iii) MS Architectural Standards, if applicable (See **11** below)

iv) Fencing (See **12** below)

v) Signs (See **13** below)

vi) Use (See **14** below)

vii) Parking (See **15** below)

viii) Landscaping (See **16** below)

ix) Streetscape, if applicable (See **17** below)

c) Site and building plans submitted under this Section require review by respective City departments for appropriate compliance with other applicable City codes and ordinances and final approval by the Community Development Department.

5. Existing Building and Property Alteration, Remodel, or Renovation

a) For the purpose of this section, alteration, remodel, or renovation shall be defined as: Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, as well as any change in rooflines, or any enlargement to or diminution of a building or structure, whether horizontally or vertically.

b) Minor modifications. For the purpose of this section, a minor modification shall be one that does not result in an alteration, remodel, or renovation as described in **a)** above. The minor modification of an existing building or property is permitted by-right if such changes result in greater conformance with the purposes and specifications of this Section. The minor modification must comply with the design standards and codes unless, through the determination of the Community Development Director, said compliance would substantially create an undue burden to the property owner or create a condition whereby the expansion and compliance measure, partially applied, would be substantially out of character with the existing development.

c) Existing buildings and properties that do not conform to the provision of this Section may continue in use as they are. However, they shall be brought into compliance with current codes and standards (to the extent possible, as determined by the Community Development Director) when:

i) The building remains vacant for a period of one continuous year or greater; or

ii) Alteration, remodel, or renovation causes one-time or cumulative amendments to 30 percent or greater of the gross square footage of building area; or

iii) A change in use occurs on the property that results in the alteration of the use orientation (e.g., service to retail), density (e.g., eight dwelling units to 15 dwelling units), or occupancy type from the building code perspective.

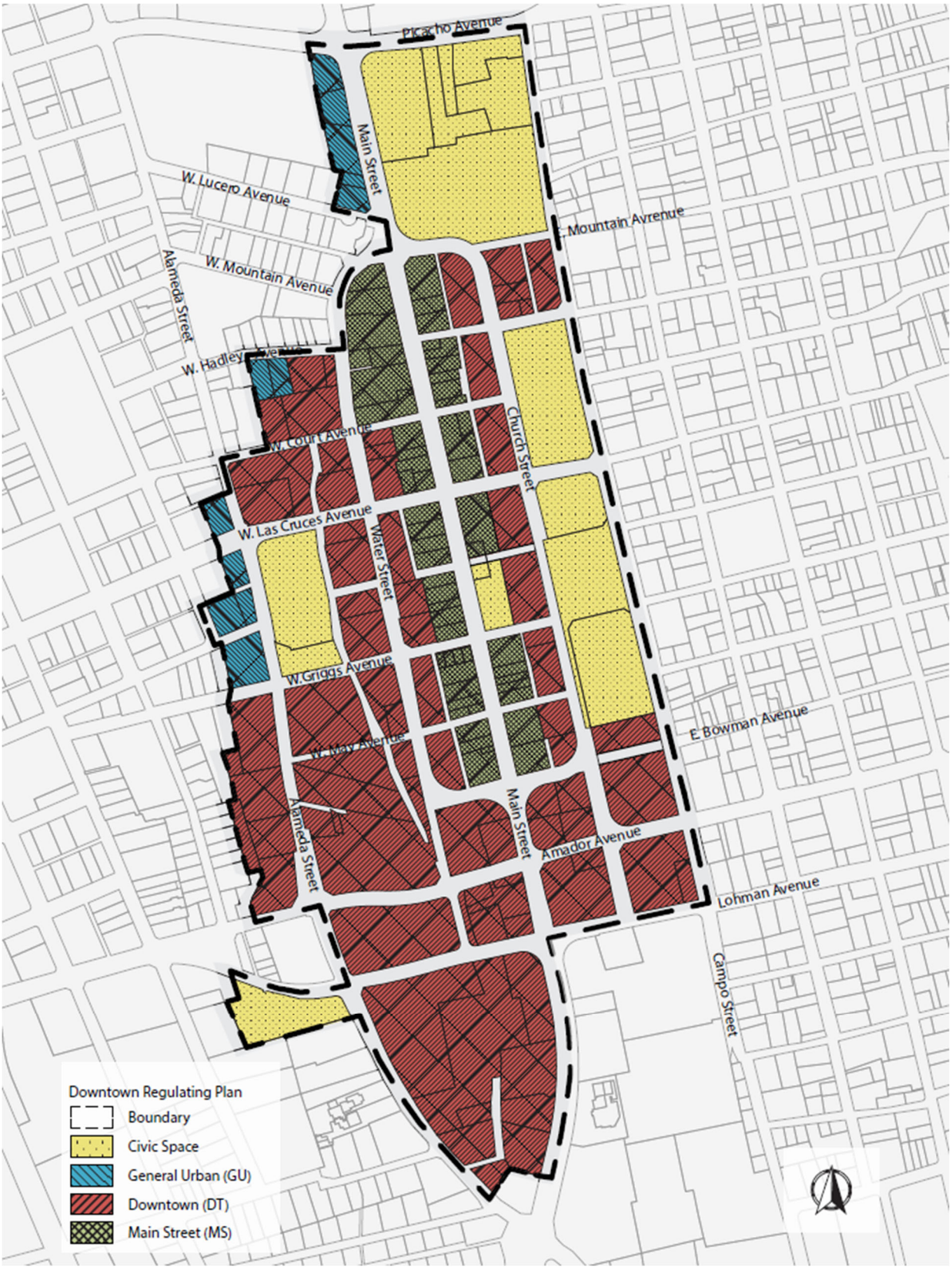
d) Once permission to proceed has been granted by the Community Development Director, the applicant may apply for the permit. Work shall not commence until permit approval is granted.

e) The restoration or rehabilitation of an existing building shall not require the provision of parking in addition to that existing, nor on-site stormwater retention/detention in addition to that existing, unless otherwise required by County or State code.

f) Normal maintenance activities, as verified by the Building Official, are exempt from this provision.

g) Should an applicant not agree with the interpretation by the Community Development Director, the interpretation may be appealed to the Planning & Zoning Commission.

**Figure 36-2-33. Downtown Regulating Plan**



6. Building Placement

   a) Lot coverage by building shall not exceed that recorded in **Figure 36-2-34**, **Figure 36-2-35**, and **Figure 36-2-36**.

   b) Facades shall be built parallel to the principal frontage line, and along a minimum percentage of the frontage width at the setback, as specified as frontage buildout in **Figure 36-2-34**, **Figure 36-2-35**, and **Figure 36-2-36**.

   c) Setbacks for principal buildings and accessory buildings shall be as shown in **Figure 36-2-34**, **Figure 36-2-35**, and **Figure 36-2-36**. Setbacks may be adjusted by up to 10 percent by administrative waiver to accommodate specific site conditions. The Director shall make the following written findings:

      i) The waiver is consistent with the provisions of **2. Zoning Districts**.

      ii) The waiver is consistent with the Downtown Master Plan.

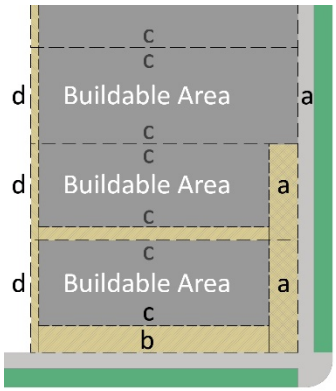
      iii) The building placement will not materially endanger the public health or safety.

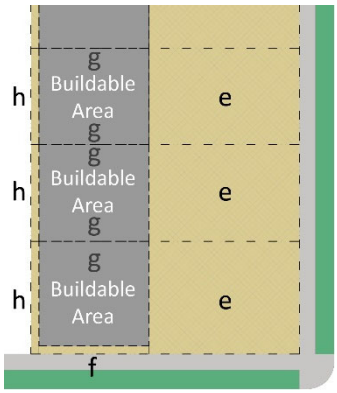
      iv) The location and character of the building placement, if developed according to the plans and information approved, will be in harmony with proximate land uses, and consistent with the purposes of the district.

      v) The building placement will not adversely affect Downtown by altering its character.

**Figure 36-2-34. Building Form Standards – GU**

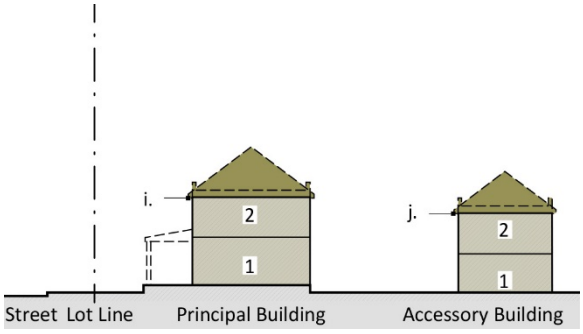
## BUILDING SETBACKS



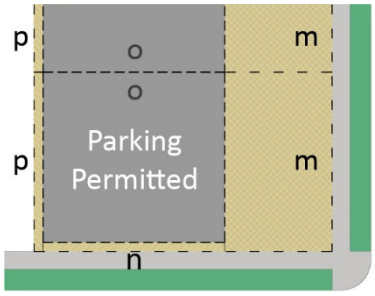




| PRINCIPAL BUILDINGS | | | ACCESSORY BUILDING | | |
|---|---|---|---|---|---|
| a | Primary Frontage | 15’ max. | e | From Rear Lot Line | 40’ max. |
| b | Secondary Frontage | 10’ max. | f | Secondary Frontage | 5’ min. |
| c | Side Lot Line | 0’ or 5’ min. | g | Side Lot Line | 0’ min. |
| d | Rear Lot Line | 3’ min. | h | Rear Lot Line | 3’ min. |

## BUILDING ENVELOPE




## PARKING AND STORAGE SETBACKS




| | | | | | |
|---|---|---|---|---|---|
| i | Building Height | 2.5 stories max. (i.e., 2 stories plus an attic level) | m | Primary Frontage | 20’ + principal building setback |
| j | Accessory Building Height | 2 stories max. | n | Secondary Frontage | 5’ min. |
| k | Parking Height | n/a | o | Side Lot Line | 0’ min. |
| l | Lot Coverage | 70% max. | p | Rear Lot Line | 3’ min. |

## BUILDING FRONTAGE

| | | |
|---|---|---|
| Permitted Frontages, see **Figure 36-2-37** and **Figure 36-2-38** | Yard<br>Walled Yard<br>Terrace<br>No Yard | Yard<br>Porch<br>Stoop<br>Shopfront |
| Frontage Buildout | 60% min. | |

**Figure 36-2-35. Building Form Standards – DT**

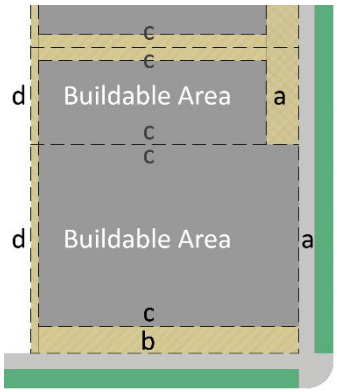
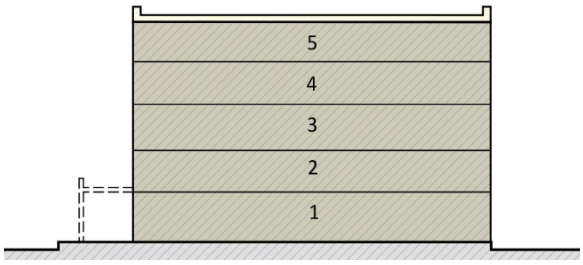
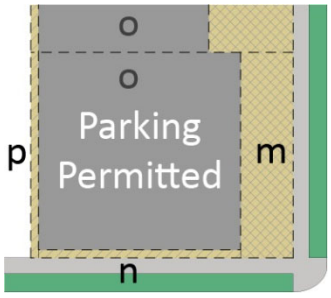
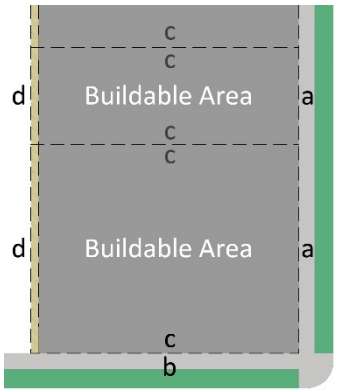
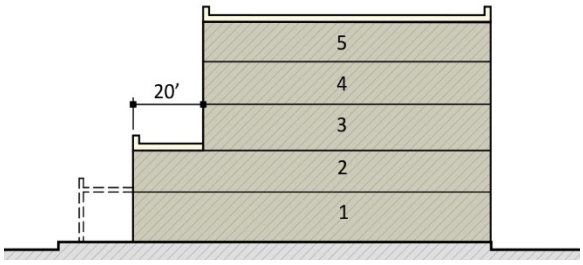
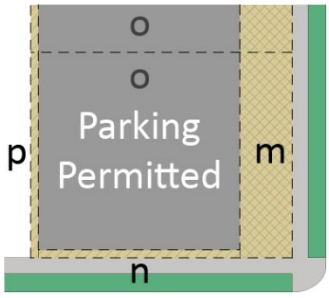
| BUILDING SETBACKS | | | | | |
|---|---|---|---|---|---|
|  | | | | | |
| **PRINCIPAL BUILDINGS** | | | **ACCESSORY BUILDING** | | |
| a | Primary Frontage | 12’ max. | e | From Rear Lot Line | n/a |
| b | Secondary Frontage | 8’ max. | f | Secondary Frontage | n/a |
| c | Side Lot Line | 0’ or 5’ min. | g | Side Lot Line | n/a |
| d | Rear Lot Line | 3’ min. | h | Rear Lot Line | n/a |
| **BUILDING ENVELOPE** | | | **PARKING AND STORAGE SETBACKS** | | |
|  | | |  | | |
| i | Building Height | 5 stories max. | m | Primary Frontage | 20’ + principal building setback |
| j | Accessory Building Height | n/a | n | Secondary Frontage | 5’ min. |
| k | Parking Height | 5 stories max. | o | Side Lot Line | 0’ min. |
| l | Lot Coverage | 100% max. | p | Rear Lot Line | 3’ min. |
| **BUILDING FRONTAGE** | | | | | |
| Permitted Frontages, see **Figure 36-2-37** and **Figure 36-2-38** | | Yard<br>No Yard<br>Terrace<br>Forecourt | | Configuration<br>Stoop<br>Common Entry<br>Shopfront<br>Gallery | |
| Frontage Buildout | | 70% min. | | | |

**Figure 36-2-36. Building Form Standards – MS**

| BUILDING SETBACKS | | | | | |
|---|---|---|---|---|---|
|  | | | | | |
| **PRINCIPAL BUILDINGS** | | | **ACCESSORY BUILDING** | | |
| a | Primary Frontage | 0’ max. | e | From Rear Lot Line | n/a |
| b | Secondary Frontage | 0’ max. | f | Secondary Frontage | n/a |
| c | Side Lot Line | 6’ max. | g | Side Lot Line | n/a |
| d | Rear Lot Line | 0’ min. | h | Rear Lot Line | n/a |
| **BUILDING ENVELOPE** | | | **PARKING AND STORAGE SETBACKS** | | |
|  | | |  | | |
| i | Building Height<br>Main Street Stepback | 5 stories max.<br>20’ after 2nd story | m | Primary Frontage | 20’ + principal building setback |
| j | Accessory Building Height | n/a | n | Secondary Frontage | 5’ min. |
| k | Parking Height | 5 stories max. | o | Side Lot Line | 0’ min. |
| l | Lot Coverage | 100% max. | p | Rear Lot Line | 0’ min. |
| **BUILDING FRONTAGE** | | | | | |
| Permitted Frontages, see **Figure 36-2-37** and **Figure 36-2-38** | | Yard<br>No Yard<br>Terrace | | Configuration<br>Common Entry<br>Shopfront<br>Gallery | |
| Frontage Buildout | | 100% min. | | | |

7. Building Specifications: Height
   a) Building height is regulated by **Figure 36-2-34**, **Figure 36-2-35**, and **Figure 36-2-36**, measured as follows:
      i) Building height is measured in above-ground stories.
      ii) Stories are measured from finished floor to finished ceiling.
      iii) Stories above the ground floor are limited to 14 feet after which height they are counted as two stories.
      iv) For residential uses, a ground floor story of 16 feet or less is counted as one story. Ground floors exceeding 16 feet in height are counted as two stories.
      v) For non-residential and mixed-uses a ground floor story shall be no less than 10 feet in height. A ground floor story of 25 feet or less is counted as one story. Ground floors exceeding 25 feet in height are counted as two stories. Mezzanines extending beyond 33% of the floor area shall be counted as an additional floor.
      vi) Height limits do not apply to unfinished attics, masts, belfries, clock towers, chimney flues, water tanks, or elevator bulkheads.
      vii) Building stepbacks shall be required in MS pursuant to **Figure 36-2-34** item i.
8. Building Specifications: Frontage Requirements
   a) Lot lines abutting a right-of-way are designated as a primary frontage or secondary frontage as follows:
      i) For lots abutting a right-of-way along a single lot line, the lot line abutting the right-of-way is designated the primary frontage.
      ii) For lots abutting a right-of-way along multiple lot lines, the lot line relating to the address of the principal building is designated the primary frontage. All remaining lot lines are designed secondary frontages.
      iii) Main Street is considered the primary frontage for all lots abutting the right-of-way.
   b) Regulations pertaining to primary frontages and secondary frontages, collectively frontage requirements, apply to the area of the lot within the front setback and secondary front setback, including the following:
      i) Building facades;
      ii) Structures that project from the façade, such as porches, terraces, stoops, awnings, canopies, and galleries;
      iii) Landscape elements and ground surfaces between the building facade and the lot line.
   c) Where building facades do not occupy the entire frontage length, a streetscreen is required as follows:
      i) Streetscreens must be between 4 and 8 feet in height.
      ii) Openings in the streetscreen for vehicular access may be no wider than 26 feet.
      iii) Streetscreens shall provide no less than 70% opacity.
   d) Frontages are regulated by frontage type according to **Figure 36-2-37**, **Figure 36-2-38**, and as follows:
      i) Landscaping, fencing, and general surface treatment are regulated according to frontage yard type pursuant to **Figure 36-2-37**.
      ii) Encroachments and configurations are regulated according to frontage configuration type pursuant to **Figure 36-2-38**.
      iii) Frontage types are a combination of frontage yard type and frontage configuration type.
      iv) Where frontage yard types permit multiple frontage configuration types, one or more frontage configuration type may be selected for each facade.
   e) Frontage types must be designated at all building frontages and must comply with the standards for that type.
   f) A shopfront frontage is required for all ground floor retail uses.

g) Building entries must be provided along frontages as follows:

   i) The principal entrance must be located at the primary frontage.

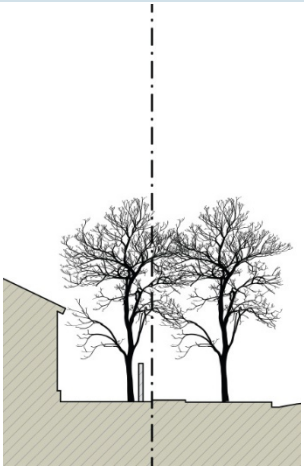
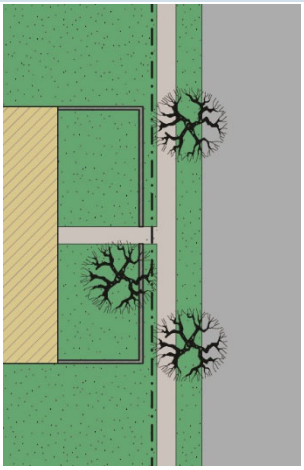
   ii) All habitable spaces within a building must be accessible from frontages.

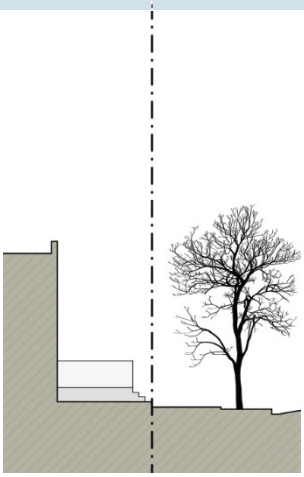
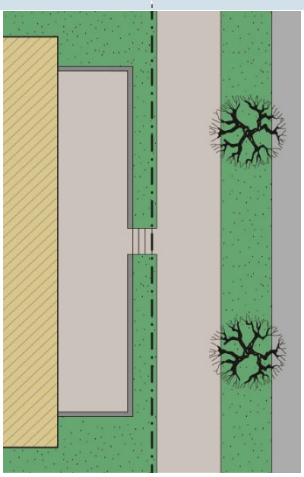
   iii) Building entries must be provided at primary frontages at a minimum of one entry for every 50 feet of frontage.

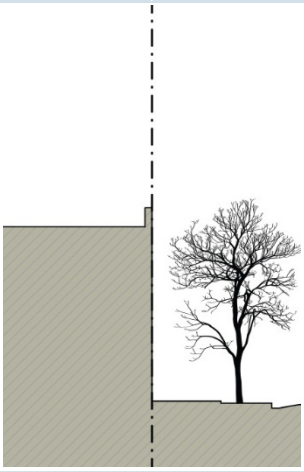
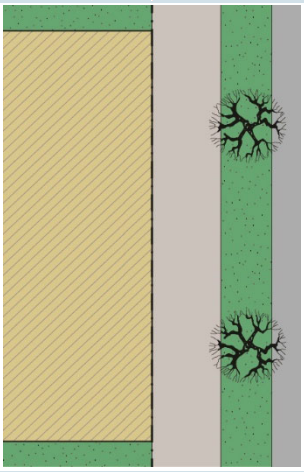
   iv) Building entries must be provided at secondary frontages at a minimum of one entry for every 150 feet of frontage.

h) Loading docks and service areas up to a combined width of 30 feet may be incorporated into secondary frontages no more than 50 feet from the rear lot line.

**Figure 36-2-37. Frontage Types – Yard**

| FRONTAGE TYPE REQUIREMENTS | | SECTION | | PLAN | |
|---|---|---|---|---|---|
| YARD A – WALLED | | PRIVATE | PUBLIC | PRIVATE | PUBLIC |
| District | GU |  | |  | |
| Setback Depth | 0’ min, 1.5’ max. | | | | |
| Combinations | Porch, Stoop | | | | |
| Landscape and Fencing Requirements | (a) The front setback must be landscaped.<br>(b) Walls are required within 18” of frontage lines.<br>(c) 1 understory tree, or 10 shrubs, is required for every 500 sf of landscaped area, or fraction thereof. | | | | |
| Additional Requirements | (a) Retaining walls are permitted for landscape level changes.<br>(b) Paving is limited to permitted walkways and driveways.<br>(c) 1 walkway per frontage providing access to the primary entrance is permitted up to 48” in width.<br>(d) This yard type must be combined with either a porch or stoop frontage. | | | | |

| FRONTAGE TYPE REQUIREMENTS | | SECTION | | PLAN | |
|---|---|---|---|---|---|
| YARD B – TERRACE | | PRIVATE | PUBLIC | PRIVATE | PUBLIC |
| District | GU, DT, MS |  | |  | |
| Setback Depth | 12’ max. | | | | |
| Combinations | Common Entry, Shopfront, Gallery | | | | |
| Landscape and Fencing Requirements | (a) The front setback must be landscaped and may be paved in DT and MS.<br>(b) Fencing is permitted at or behind the building setback line.<br>(c) In GU, fencing is permitted at frontage lines. | | | | |
| Additional Requirements | (a) The frontage setback must be raised between 12” and 36”.<br>(b) Terraces may be no less than 8’ in depth.<br>(c) Retaining walls are permitted for level changes.<br>(d) If in MS, the Terrace must be embedded within to maintain the zero setback.<br>(e) This yard type must be combined with a Shopfront or Common Entry frontage or a combination of both. | | | | |

| FRONTAGE TYPE REQUIREMENTS | | SECTION | | PLAN | |
|---|---|---|---|---|---|
| YARD C – NO-YARD | | PRIVATE | PUBLIC | PRIVATE | PUBLIC |
| District | GU, DT, MS |  | |  | |
| Setback Depth | 8’ max. | | | | |
| Combinations | Common Entry, Shopfront, Gallery | | | | |
| Landscape and Fencing Requirements | (a) The frontage setback must be paved and integrated with the public sidewalk.<br>(b) Raised planters and portable and non-permanent planters are permitted. | | | | |
| Additional Requirements | (a) The frontage setback must match sidewalk grade.<br>(b) The frontage setbacks may be used for outdoor seating and merchandise sales and display. The frontage setback may not be used for storage. | | | | |

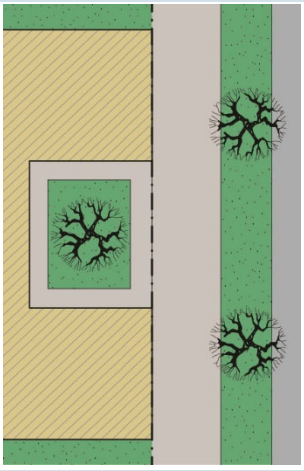
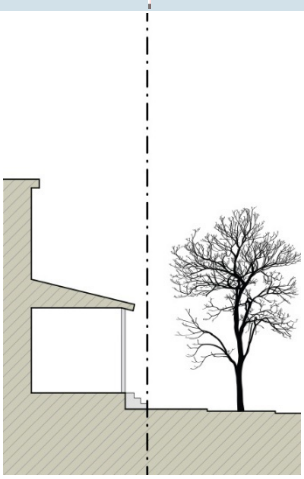
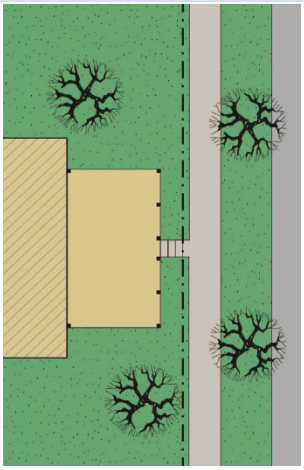
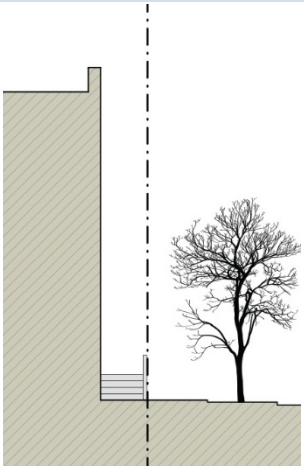
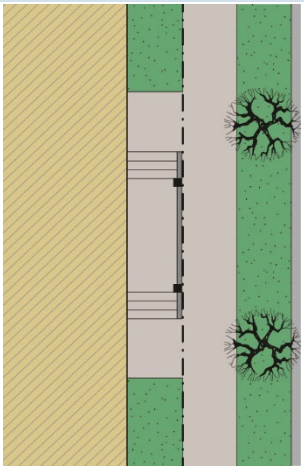
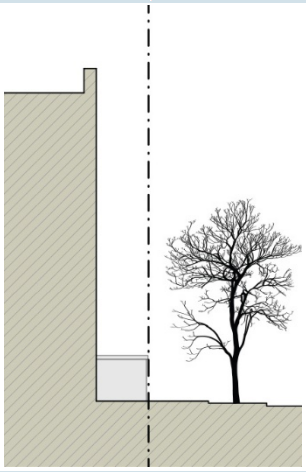
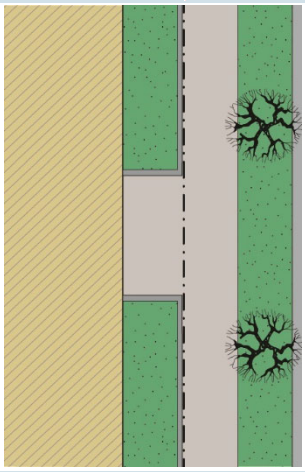
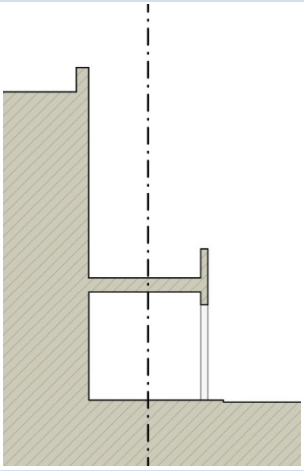
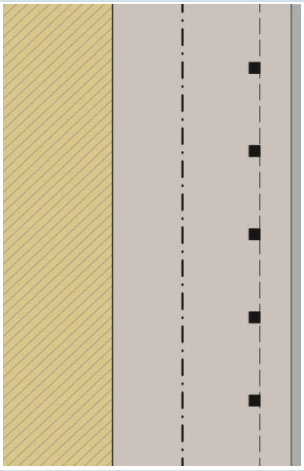
| FRONTAGE TYPE REQUIREMENTS | | SECTION | | PLAN | |
|---|---|---|---|---|---|
| YARD D – FORECOURT | | PRIVATE | PUBLIC | PRIVATE | PUBLIC |
| District | DT |  | |  | |
| Setback Depth | 8’ max., excluding Forecourt | | | | |
| Combinations | Shopfront, Common Entry, Gallery | | | | |
| Landscape and Fencing Requirements | (a) The frontage setback must be paved and integrated with the public sidewalk.<br>(b) Raised planters and portable and non-permanent planters are permitted.<br>(c) Forecourts may be paved or landscaped. | | | | |
| Additional Requirements | (a) A Forecourt shall be located at the primary entrance, and shall be no greater than 600 sf in area.<br>(b) The Forecourt must be bound by facades on a minimum of 2 sides.<br>(c) Facades at the Forecourt may exceed maximum frontage setback.<br>(d) The frontage setback must be configured according to Yard C – No-Yard. | | | | |

**Figure 36-2-38. Frontage Types – Configuration**

| FRONTAGE CONFIGURATION REQUIREMENTS | | SECTION | | PLAN | |
|---|---|---|---|---|---|
| CONFIGURATION A – PORCH | | PRIVATE | PUBLIC | PRIVATE | PUBLIC |
| District | GU |  | |  | |
| Entry Grade | 36” max. | | | | |
| Combinations | n/a | | | | |
| Setback and Encroachment | (a) Porches and related structure may encroach into frontage setbacks up to 100% of their depth in GU. | | | | |
| Additional Requirements | (a) A Porch may only occur at the primary entrance.<br>(b) Porches may be no less than 6’ in depth. | | | | |

| FRONTAGE CONFIGURATION REQUIREMENTS | | SECTION | | PLAN | |
|---|---|---|---|---|---|
| CONFIGURATION B – STOOP | | PRIVATE | PUBLIC | PRIVATE | PUBLIC |
| District | GU, DT |  | |  | |
| Entry Grade | 36” max. | | | | |
| Combinations | Common Entry | | | | |
| Setback and Encroachment | (a) Stoops and related structure may encroach into frontage setbacks up to 100%.<br>(b) Stoops may be recessed into building facades. | | | | |
| Additional Requirements | (a) A Stoop is required at the primary entrance.<br>(b) Stoops may be masonry, stone, stucco, or concrete.<br>(c) Wood is prohibited for Stoop railings.<br>(d) Stoop landings may be covered. | | | | |

| FRONTAGE CONFIGURATION REQUIREMENTS | | SECTION | | PLAN | |
|---|---|---|---|---|---|
| CONFIGURATION C – COMMON ENTRY | | PRIVATE | PUBLIC | PRIVATE | PUBLIC |
| District | DT, MS |  | |  | |
| Entry Grade | 20” max. | | | | |
| Combinations | Shopfront, Stoop | | | | |
| Setback and Encroachment | (a) Canopies and awnings may encroach into frontage setbacks up to 100% of their depth.<br>(b) Canopies and awnings may encroach into the public pedestrian way up to 10’. | | | | |
| Additional Requirements | (a) A Stoop combination is permitted in DT.<br>(b) Canopies are permitted at the primary entrance.<br>(c) Awnings are permitted along facades. | | | | |

| FRONTAGE CONFIGURATION REQUIREMENTS | | SECTION | | PLAN | |
|---|---|---|---|---|---|
| CONFIGURATION D – GALLERY | | PRIVATE | PUBLIC | PRIVATE | PUBLIC |
| District | DT, MS |  | |  | |
| Entry Grade | Sidewalk grade | | | | |
| Combinations | Shopfront, Common Entry | | | | |
| Setback and Encroachment | (a) Galleries may encroach into frontage setbacks up to 100% of their depth.<br>(b) Galleries may encroach into the public pedestrian way to up 10’.<br>(c) Awnings are not permitted in combination with Galleries. | | | | |
| Additional Requirements | (a) Galleries may be no less than 8’ in depth.<br>(b) Galleries must have a minimum clearance of 10’.<br>(c) Galleries must be supported by columns.<br>(d) Galleries must be covered by roofing, green roofing, upper terraces, trellises, solar collectors, or fabric. | | | | |

| FRONTAGE CONFIGURATION REQUIREMENTS | | SECTION | | PLAN | |
|---|---|---|---|---|---|
| CONFIGURATION E – SHOPFRONT | | PRIVATE | PUBLIC | PRIVATE | PUBLIC |
| District | DT, MS |  | | | |
| Entry Grade | Sidewalk grade | | | | |
| Combinations | Shopfront, Common Entry | | | | |
| Setback and Encroachment | (a) Display windows may encroach into frontage setbacks up to 5' in depth.<br>(b) Awnings may encroach into frontage setbacks up to 100% of their depth.<br>(c) Awnings may encroach into the public pedestrian way to up to 10'. | | | | |
| Additional Requirements | (a) Entries may be recessed from the facade up to 5' in depth.<br>(b) Tenant spaces must provide Shopfronts along no less than 70% of tenant space frontage.<br>(c) Tenant spaces with frontage on both primary and secondary frontages must provide Shopfronts along no less than 30% of the secondary frontage. | | | | |

9. Building Specifications: Encroachments.
   a) Encroachments into frontages are permitted as follows:
      i) Encroachments in frontage setback are prohibited except where specifically permitted in this Section, **Figure 36-2-37**, and **Figure 36-2-38**.
      ii) Roof overhangs, cornices, window and door surrounds and other facade decorations may encroach into the front setback up to 2 feet but not beyond the lot line, and may not obscure views from windows to the street or from the street into windows.
      iii) Shading devices may encroach into frontage setbacks as follows:
      iv) In GU, shading devices attached to facades may encroach up to 6 feet, but not beyond the lot line.
      v) In DT and MS, shading devices may encroach into the front setback up to the lot line, and into the right-of-way up to 10 feet or within 2 feet of the curb.
      vi) Balconies may encroach into the frontage setback a maximum of 3 feet, but not beyond the lot line.
      vii) Bay and bow windows may encroach into the frontage setbacks up to 3 feet, but not beyond the lot line.
   b) Encroachments into pedestrian passages are permitted as follows:
      i) A minimum of 14 feet in height must be maintained along the entire length of pedestrian passage.
      ii) Buildings and structures may encroach over pedestrian passages.
      iii) An unobstructed pedestrian path must be maintained a minimum of 5 feet in width and 8 feet in height. The pedestrian path is required to be continuous, however, it is not required to follow a straight line.
      iv) Signage, bay and bow windows, balconies, lighting fixtures, and display windows may encroach into pedestrian passages.

v) Outdoor seating, outdoor dining, and other non-permanent fixtures may encroach into pedestrian passages.

10. Building Specifications: Glazing.

a) Facade Glazing of building frontages must meet the minimum area requirements, calculated by glass area for each facade separately, as specified in **Figure 36-2-39. Minimum Facade Glazing**.

b) Mirrored and reflective glass is prohibited.

c) Shopfront frontages must meet the following Glazing requirements:

**Figure 36-2-39. Minimum Facade Glazing**

| MEASUREMENT | GU | DT |
|---|---|---|
| Ground Floor | 20% | 20% |
| Second Floor | 20% | 20% |
| Upper Floors | N/A | 20% |

i) Shopfronts must provide clear glazed areas for visibility into tenant spaces for no less than 60 percent of the shopfront area.

a. Facade area is calculated as the height from finished floor to finished ceiling times the width of the tenant space.

ii) Shopfront Glazing requirements are calculated separately for each tenant space.

d) Signs and posters shall cover no more than 30 percent of the total Glazing area.

11. MS Architectural Standards

This sub-section supersedes the zoning district standards for any subject addressed in the MS zoning district.

a) Building Width:

i) New buildings facing Main Street shall not exceed the average building width on their block except as follows:

a. Buildings may be a maximum of 150 feet wide if the facade is designed to simulate the average width of buildings on the block.

ii) Facade Standards:

a. Glazing at the second story shall not exceed 30% of the second story building facade wall area.

b. Mechanical equipment shall be screened from the street view.

iii) Sidewalk Coverings:

a. When awnings, canopies, or galleries are used, they shall be designed and installed in compliance with building codes.

b. Sidewalk coverings shall not obscure architectural details of designated historic building facades.

iv) Signs:

a. Signs shall not obscure other building elements such as windows, cornices, or architectural details.

b. Individual business signs in a single storefront shall relate to each other in design, size, and placement on the building and lettering style.

c. Externally illuminated signs shall contain light within the sign frame and shall not spill light over to other portions of the building.

12. Fencing

a) Hedges in frontage fences shall be evergreen.

b) Wood frontage fences shall be painted or stained.

c) Lot line fences shall be between 60 and 72 inches in height.

d) Frontage fences shall not exceed 48 inches in height nor violate the clear sight triangle.

e) Frontage fences may occur at the lot line, or up to 18 inches behind the lot line to permit landscaping.

f) When erected on a lot line, all of the fence and any of its supporting structures shall be contained within the lot.

g) The supporting members and posts shall be on the inside, and the smooth or flat faces on the outside. If two faces are used, each face shall be of the same type and finish. Board on board fences is considered equal treatment.

h) Chain link, barbed wire, razor wire, and electrically charged fences are not permitted.

13. Signs

The general intent of regulating signs that are visible from the public frontage is to ensure proper dimensioning and placement with respect to existing or planned architectural features, to maintain or improve public safety, to maintain or improve the aesthetic character of the context in which they are located (See **Figure 36-2-40. General Sign Restrictions**). Signage provides legible information for pedestrians as well as drivers.

Except with respect to the additional provisions in this section, **Sec. 38-10. Signs** shall be applicable and govern pursuant to the administration, processes and provisions for all signage within the City Limits of the City of Las Cruces. However, only the signage types permitted in this subsection and **Figure 36-2-40. General Sign Restrictions** hereof shall be permitted in the Downtown.

a) Prohibited Signs

i) Moving, flashing, or animated signs, including, but not limited to searchlights, streamers, and spinners;

ii) Inflatable signs, such as but not limited to balloons, gas-inflated signs, or similar inflated signs;

iii) Portable signs, except for sidewalk signs, as allowed in **Figure 36-2-40. General Sign Restrictions**;

iv) Flags, other than those specifically allowed in **Sec. 38-10. Signs**;

v) Outdoor image projections (signs projected from an external light source onto a building or structure) or any other similar devices.

b) Permitted Signs and Sign Restrictions.

i) Permitted sign types are limited by Transect district and the following restrictions according to **Figure 36-2-40. General Sign Restrictions**:

a. The number of signs per sign type;

b. The area of signs;

c. Height of sign copy.

ii) Additional sign restrictions apply per sign type, according to **Figure 36-2-41. Specific Sign Regulations**.

iii) A permit is required for the installation or modification of all signs as specified in **Figure 36-2-41** as Permit.

a. Signs projecting into rights-of-way require a permit.

b. Signs not requiring a permit must meet all of the requirements of this section.

c. Any freestanding sign over 20 feet in height above grade or any sign extending above the public right-of-way shall require the seal of a professional engineer, indicating that the sign meets all best engineering practices and standards.

iv) Signs may be installed and maintained for the period of time specified according to **Figure 36-2-40. General Sign Restrictions** as Period.

a. All signs must be removed within 14 days of the termination of the permitted period. Signs permitted for a permanent period are not regulated by this subsection.

b. Where the period of a sign is limited to during business hours, the sign must be removed during all hours the establishment is not in operation.

c. Any moveable signs must be removed from outdoor spaces during high winds or other weather conditions that might pose a hazard to public safety.

v) All signs must provide the following clearance except where specified otherwise:

a. 8 feet at pedestrian ways;

b. 13.5 feet at vehicular ways.

vi) Illuminated signs are permitted as follows:

a. Signs may be illuminated by a light source external to the sign;

b. Internally illuminated signs are permitted at shopfront frontages.

vii) Changeable copy is permitted for display cases, suspended, kiosk, ground, and sidewalk signs, and at community and regional parks. Change of copy does not require a permit.

**Figure 36-2-40. General Sign Restrictions**

| SIGN TYPE | MS | DT | PERMIT | PERIOD | NUMBER | MAX. SIZE |
|---|---|---|---|---|---|---|
| Awning | • | • | S | O | 1 sloping plane, plus 1 valence per awning | 75% of sloping plane; 75% area of awning valence |
| Banner | • | | N/A | O | 1 per frontage | 48 sqft |
| Canopy | • | | S | P | 1 per canopy | 2 sqft per linear foot of shopfront |
| Corner | • | • | S | P | 1 per building | 24 in. wide |
| Display Case | • | | S | P | 1 per business | 6 sqft |
| Ground | | | S | P | 1 per frontage | 36 sqft |
| Kiosk | • | | S | P | N/A | 24 sqft |
| Marquee | • | | S | P | 1 per entry | N/A |
| Projecting | • | • | S | P | 1 per tenant | 9 sqft |
| Sidewalk | • | • | N/A | B | 1 per tenant | 8 sqft |
| Suspended | • | • | S | P | 1 per entry | 9 sqft |
| Wall Sign | • | • | S | O | 1 per frontage | 3 sqft per 1 linear ft. up to 90% of the width of tenant space |
| Wall Mural Sign | • | • | S | P | 1 per frontage | 3 sqft per 1 linear ft. up to 90% of the width of tenant space |
| Window | • | • | S | O | 1 per window | 25% of glazed area |
| Window: Neon | • | | N/A | O | N/A | 25% of glazed area |

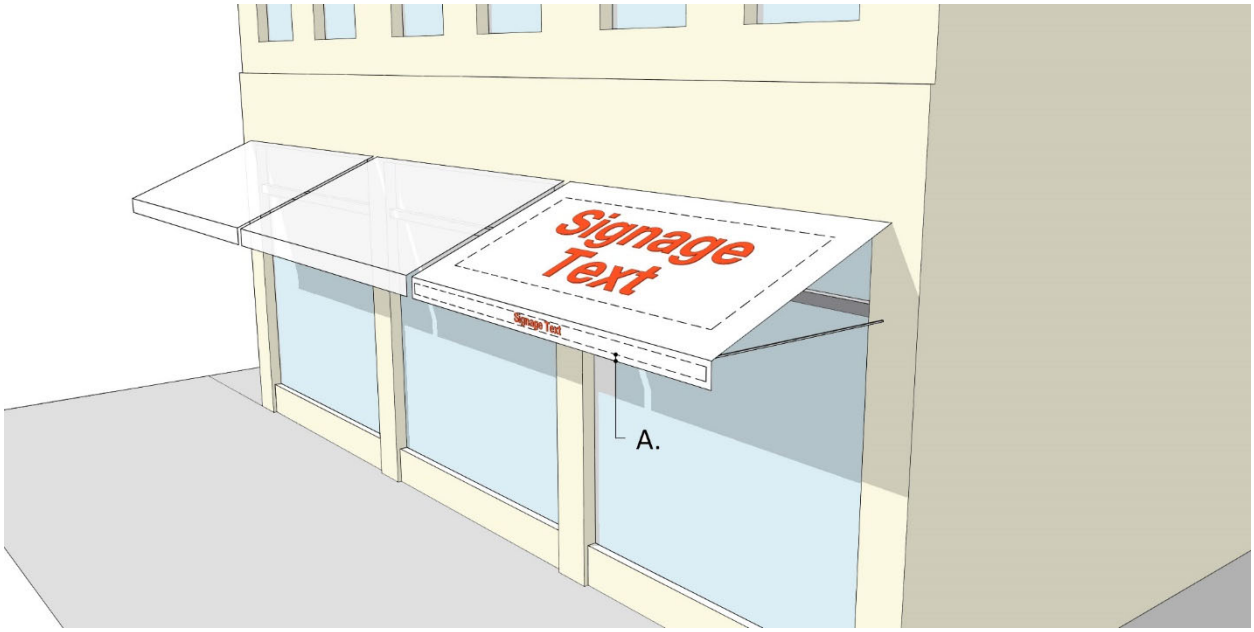
| Symbol | Meaning |
|---|---|
| • | Permitted |
| <blank> | Not Permitted |
| n/a | Not Required |
| P | Permanent |
| O | Period of Occupation |
| B | During Business House |
| S | Standards |

**Figure 36-2-41. Specific Sign Regulations**

**Awning Sign**

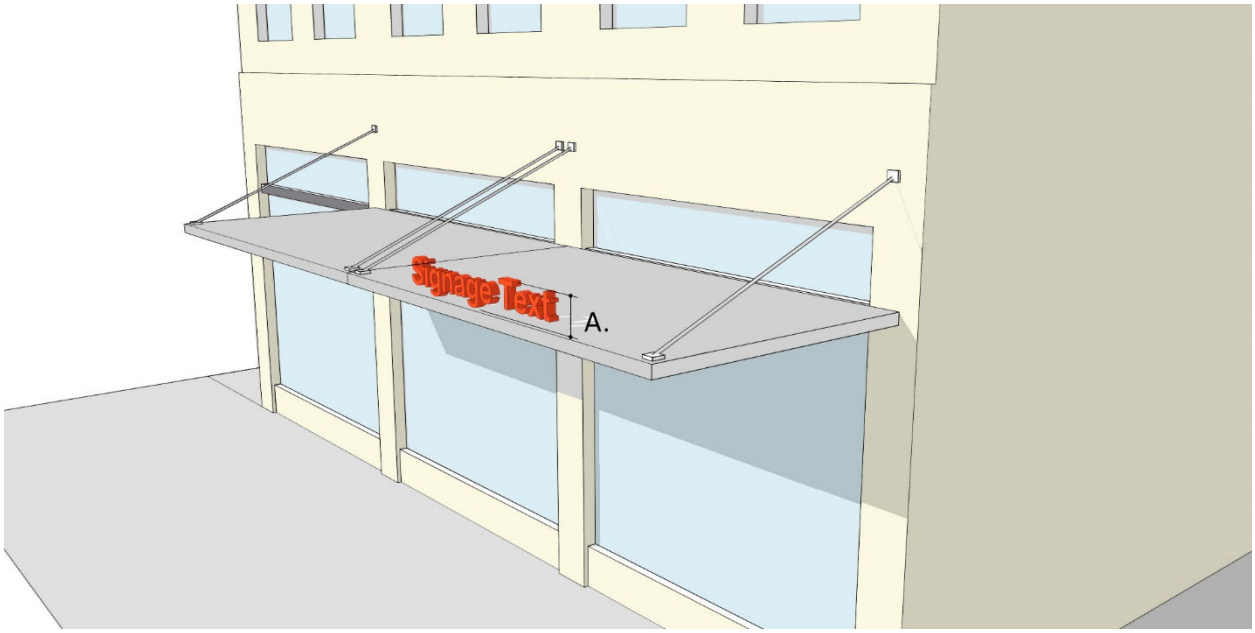
A. Signage area must have a 1" border.

B. Signage area may not exceed 75% of each portion of the sign area, which shall be calculated individually.




**Canopy Sign**

A. Canopy signs may be externally illuminated or neon. Fixtures must be shielded to prevent glare. Conduit, raceways, and wiring may not be exposed to view from the sidewalk.



## Corner Sign

A. Corner signs must provide 10’ of clearance.

B. Corner signs may extend up to 6’ above the parapets.

C. Corner signs may only be located at the corner of a building located on a corner (i.e., with both primary and secondary frontages).




## Ground Sign

A. Ground signs must not exceed 6’ in height or width with a signable area of 12 sqft max.

B. One ground sign per frontage is permitted and may be double-sided.

C. Ground signs must be constructed of durable materials.

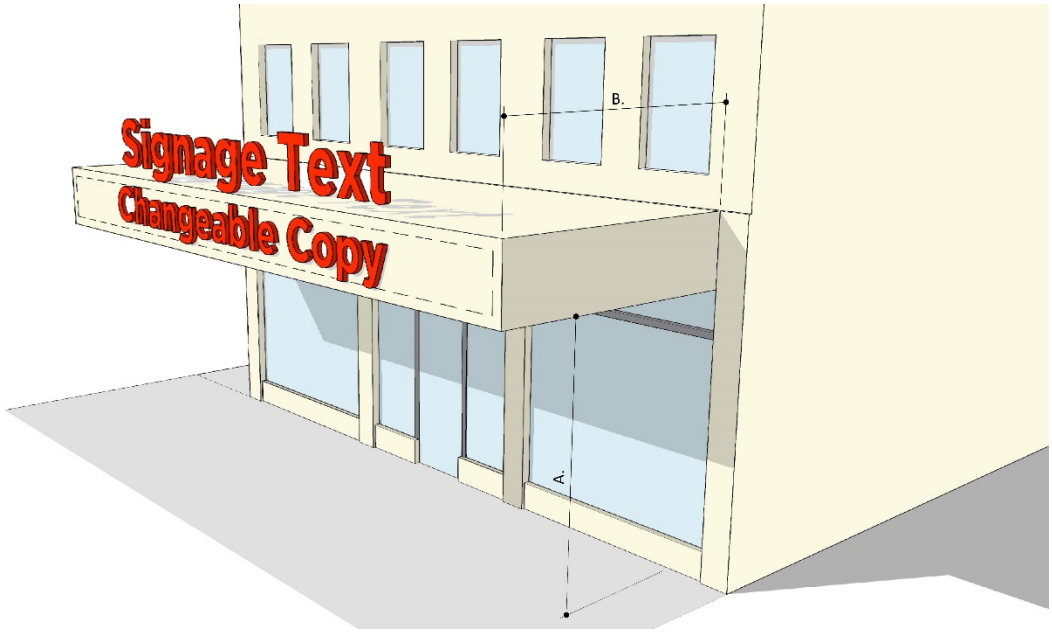


## Marquee Sign

A. Marquee signs must provide 8’ of clearance.

B. Marquee signs project to within 2’ of the curb.

C. Marquee signs may be combined with a Canopy sign or a Projecting sign.

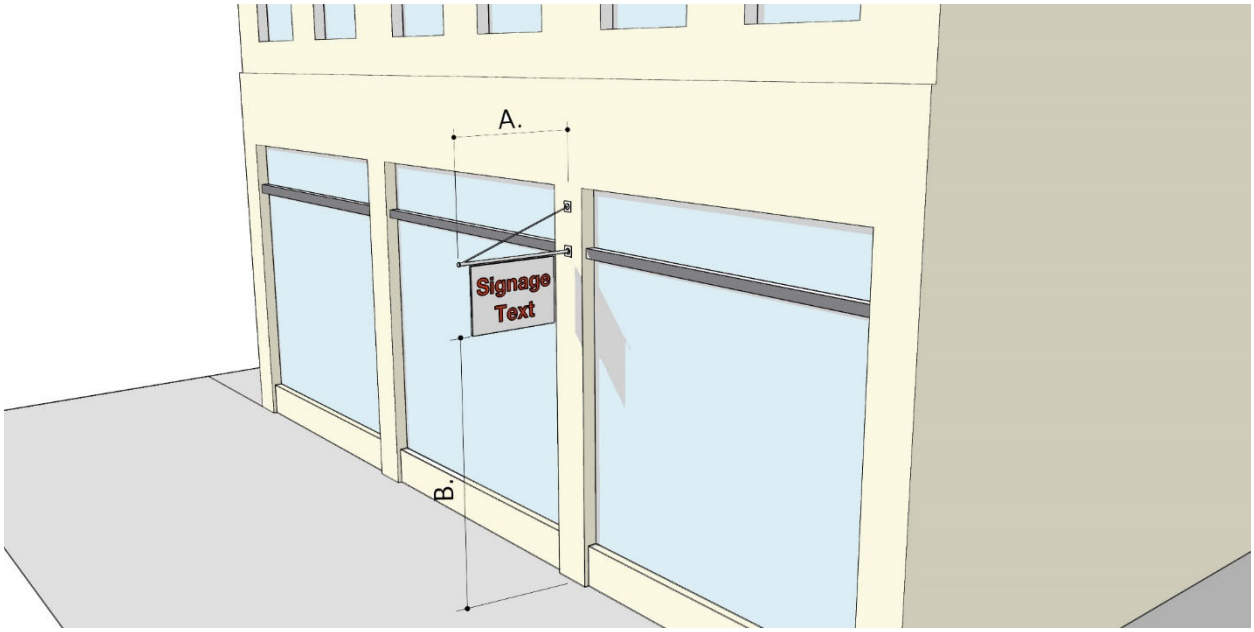



## Projecting Sign

A. Projecting signs may encroach into the right-of-way up to 3’.

B. Projecting signs must provide 8’ of clearance.

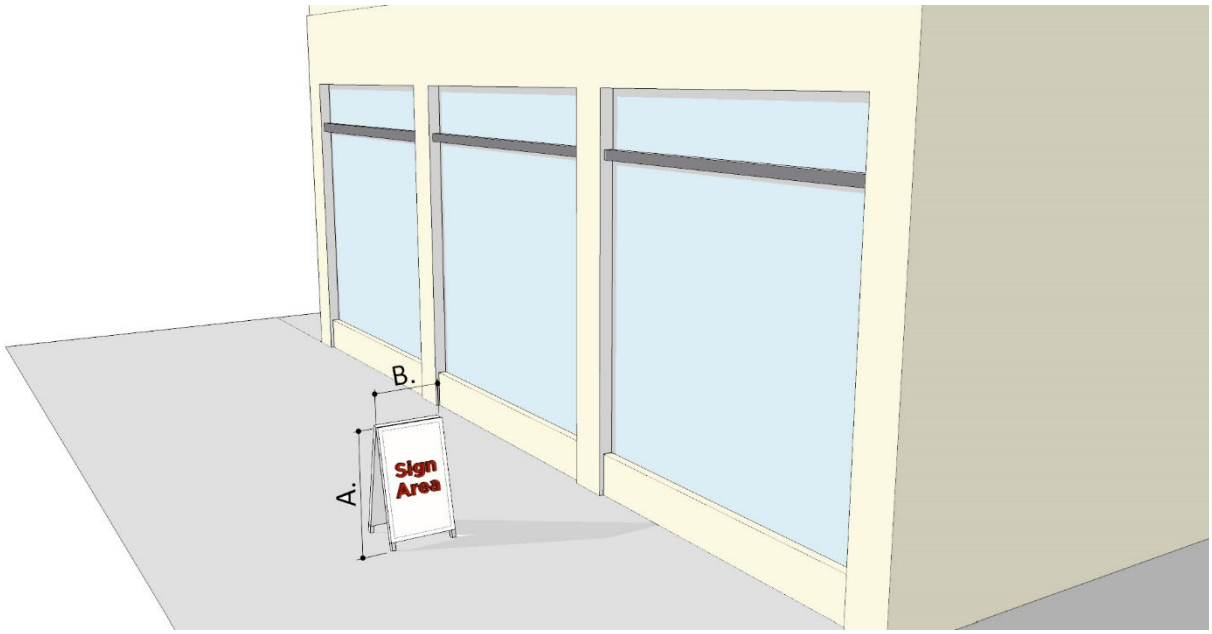
C. Projecting signs may be double-sided.



**Sidewalk Sign**

A. Sign height may not exceed 42”.

B. Sign width may not exceed 26” inches.

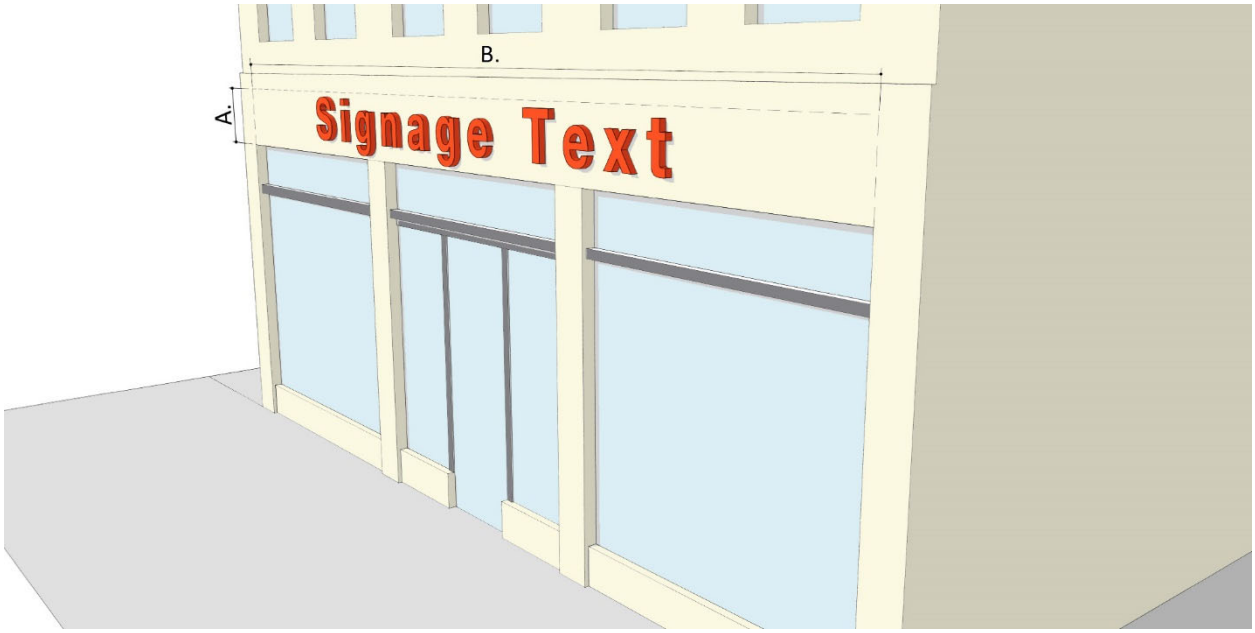



**Wall Sign**

A. Sign height may not exceed 36”.

B. Sign width may be 90% of storefront width.

C. Wall signs may be externally illuminated or neon. Fixtures must be shielded to prevent glare.



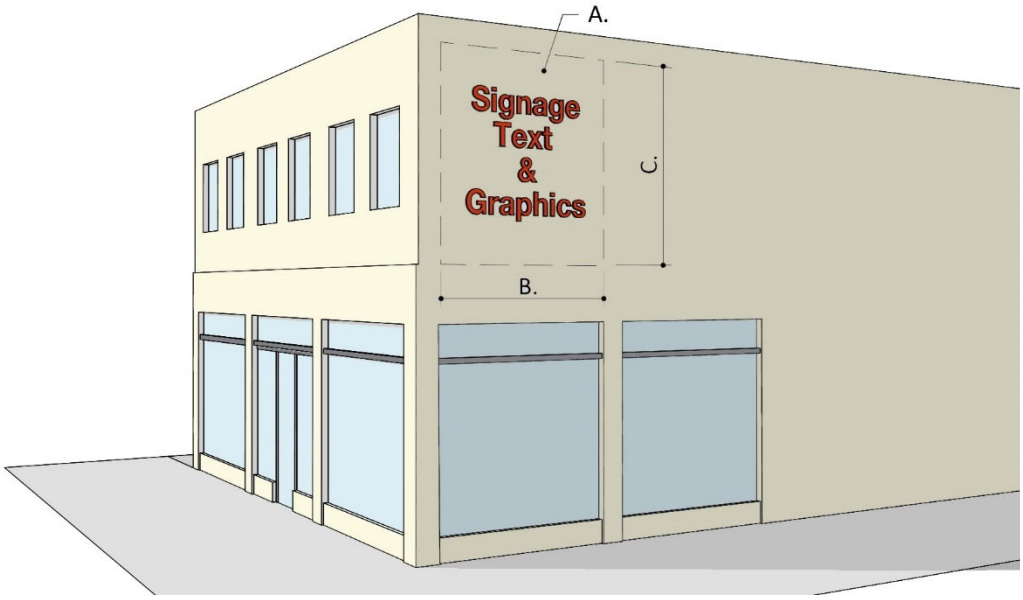
**Wall Mural Sign**

A. Signable area is 1,000 sqft max.

B. Sign width is 50’ max.

C. Sign height is 60’ max.

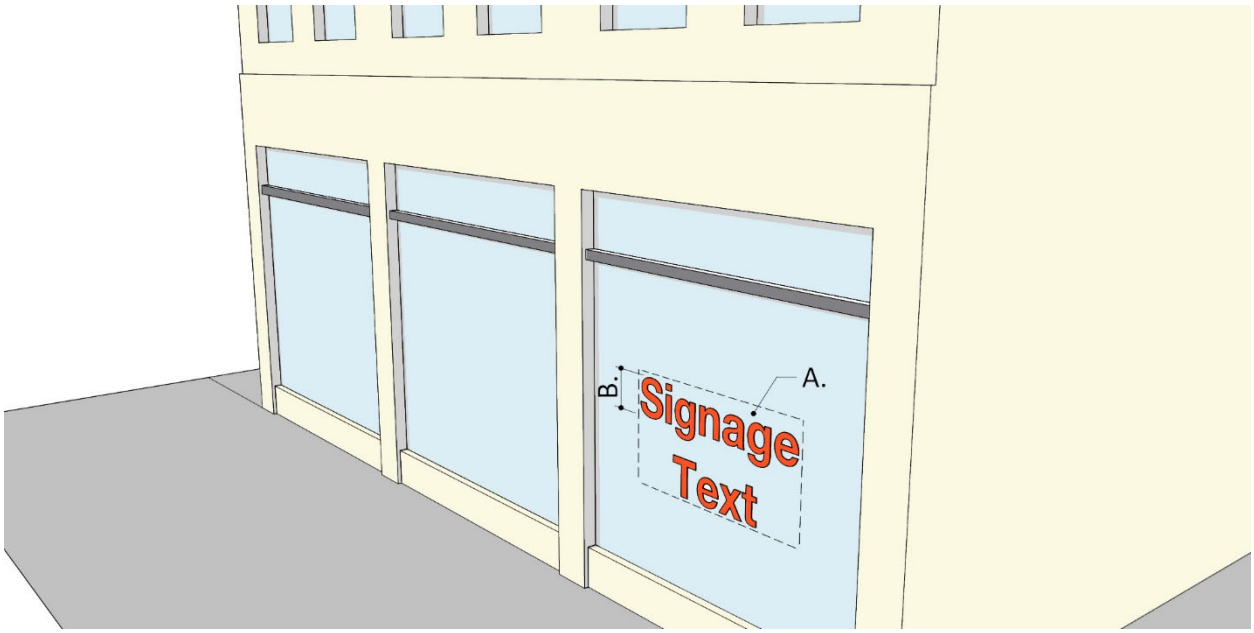
D. Only text or graphics painted directly on the wall or a graphic mural are permitted.




**Window Sign**

A. Signage area is 25% max. of shopfront window.

B. Copy height is 12” max.



14. Uses

a) Lot and building use is allowed according to **Figure 36-2-42. Downtown Development Code Allowed Uses** by use category and subcategory.

b) Multiple uses within a single lot or building are permitted in all districts.

c) Accessory uses are permitted as follows:

i) Accessory dwellings in GU are limited to housing related to the principal dwelling, rental housing, and home office uses, not exceeding 600 square feet per story.

ii) Home occupations are permitted in accordance with the provisions of **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #23. Home Occupation.

d) Manufacturing uses, other than cottage industries, are not permitted Downtown.

e) Conditional Uses are permitted pursuant to noted conditions.

**Figure 36-2-42. Downtown Development Code Allowed Uses**

| USE CATEGORY | GU | DT | MS | CONDITIONS |
|---|---|---|---|---|
| **RESIDENTIAL** | | | | |
| Single or Two-family Dwelling | A | NP | NP | |
| Family Child Care Home (1-6 occupants) | C | C | C | See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #37 Child Care Home (≤6) |
| Accessory Dwelling Unit | A | A | A | |
| Multi-family Dwelling | A | A | A | |
| Group Home (up to 16 occupants) | C | C | C | See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #13 Community Residence (Licensed for Persons with Disabilities) |
| **LODGING** | | | | |
| Lodging in Accessory Dwelling Unit | A | A | A | |
| Bed and Breakfast (up to 6 rooms) | A | NP | NP | |
| Inn (up to 12 rooms) | A | A | A | |
| Hotel | A | A | A | |
| **OFFICE** | | | | |
| Accessory Office | A | A | A | |
| Live-work Unit | A | A | A | |
| Office | C | A | A | Building area available for office use is limited to the first story. |
| Outpatient Clinic | NP | A | A | |
| Laboratory | NP | C | C | Medical, dental, or similar uses. Permitted only when entirely contained within an office building and used strictly for the purpose of serving the occupants of the office complex. There shall be no advertising signs or other visible displays indicating the use from the exterior of the building. |
| **RETAIL** | | | | |
| Open Market Space | A | A | A | |

| USE CATEGORY | GU | DT | MS | CONDITIONS |
|---|---|---|---|---|
| Retail | C | A | A | Building area available for retail use is limited to the first story. |
| Push Cart | A | A | A | |
| Kiosk | NP | A | A | |
| Gasoline Sales | C | C | NP | Permitted only when vehicle repair activities are not associated with the use. |
| Restaurant or Other Dining Establishment | C | A | A | Seating shall not exceed 40. |
| Outdoor Cooking | A | A | A | |
| Outdoor Dining | A | A | A | |
| Tavern or Bar | C | A | A | Seating shall not exceed 40. |
| Nightclub | NP | A | A | |
| **INSTITUTIONAL** | | | | |
| Live Theater or Movie Theater | NP | A | A | |
| Broadcasting Studios | NP | A | NP | |
| Gallery | C | A | A | Building area available for gallery use is limited to the first story. |
| Museum | C | A | A | Building area available for museum use is limited to the first story. |
| Libraries | A | A | A | |
| Legislative and Court Chambers | NP | A | A | |
| Conference Center | NP | A | A | |
| Terminal Waiting Areas | NP | A | A | |
| Funeral Homes | NP | A | NP | |
| Participatory Assembly | A | A | A | |
| Nursing Home with Medical Care | C | C | C | Must be located on a collector or higher designated roadway. |
| Classroom for Participatory Assembly Uses | A | A | A | |
| Child Classrooms & Daycare | A | A | A | |
| Accessory Daycare (fewer than 6 children) | A | A | A | |
| School, K-12 | A | A | A | |
| School, college or university | A | A | A | |
| School, commercial, trade or technical | C | A | A | Located on a minor arterial or higher designated roadway. |
| **AGRICULTURAL** | | | | |
| Animal (Pet) Care Facility | NP | A | A | |
| Animal (Pet) Day Care Facility | NP | A | A | |
| Chickens | C | NP | NP | Roosters are not permitted. |
| Garden Supply or Greenhouse | A | NP | NP | |

(A) Approved by Right (C) Conditional (NP) Not Permitted

15. Parking

a) Off-street Parking Location and Access.

i) Off-street parking shall be provided in accordance with achieving the Downtown Master Plan goals and policies and supporting the development proposal.

ii) Additional off-street parking is not required in the downtown transects. Unless otherwise specified, off-street parking design shall comply with **Sec. 38-2. Roads, Rights-of-Way, and Parking** as well as any state and federal regulations.

iii) When provided, parking may not be located within 30 feet of the primary frontage line and 20 feet of secondary frontage lines.

iv) Parking areas shall have well-delineated pedestrian access routes to the most direct entrance of the building they serve.

v) Parking may be fulfilled in the following locations:

a. Parking spaces provided within the lot.

b. Parking spaces provided along a parking lane (on-street) corresponding to lot frontages.

c. Parking spaces leased from a private or public parking facility within 500 feet of the lot.

d. Parking spaces managed by an established parking district.

b) Parking lots and structures visible from frontages require one of the following screening methods or a combination of methods:

i) Liner Buildings, optional at parking lots and required at parking structures. The ground floor frontages of parking structures shall be screened with Liner Buildings with the exception of ingress and egress points.

ii) A masonry wall no less than 4 feet in height.

iii) An evergreen hedge, or other landscape element to screen the view of parking, no less than 4 feet in height.

c) Driveways providing access to off-street parking are limited to 24 feet (2-way) in width in DT or MS and 10 feet (1-way) in width in GU.

d) Vehicular access to off-street parking is restricted as follows:

i) Lots with rear alley access must provide vehicular access from a rear alley.

ii) One curb-cut is permitted for each secondary frontage. Curb cuts shall comply with **Sec. 38-2. Roads, Rights-of-Way, and Parking**.

iii) Where secondary frontages are not available, one curb-cut is permitted at the primary frontage for lots with a minimum width of 80 feet.

e) Pedestrian access to off-street parking must be provided from frontages, according to the following:

i) A minimum of one ADA-compliant walkway must be provided between each lot frontage and off-street parking areas.

ii) Pedestrian access walkways must be a minimum of 6 feet in width in DT.

f) Shared Vehicular Parking Options.

i) The number of spaces provided may be reduced according to **Figure 36-2-43. Shared Parking**, completed as follows:

a. For each use, enter the minimum required spaces as specified in **Figure 36-2-43**, into the first column.

b. For each time of day, multiply the required spaces per use by the occupancy rate, and enter the sum of the resulting column in the bottom row.

c. The resulting reduced minimum required parking spaces is the highest value entered in the bottom row.

**Figure 36-2-43. Shared Parking**

| USES | REQ# | M—F 8AM—6PM | M—F 6PM—12AM | M—F 12AM—8AM | SAT & SUN 8AM—6PM | SAT & SUN 6PM—12AM | SAT & SUN 12AM—8AM |
|---|---|---|---|---|---|---|---|
| Residential | | 60% | 100% | 100% | 80% | 100% | 100% |
| Office | | 70% | 100% | 100% | 70% | 100% | 100% |
| Lodging | | 100% | 20% | 5% | 5% | 5% | 5% |
| Retail | | 90% | 80% | 5% | 100% | 70% | 5% |
| Restaurant | | 70% | 100% | 100% | 70% | 100% | 100% |
| Theater | | 40% | 80% | 10% | 80% | 100% | 10% |
| Entertainment | | 40% | 100% | 10% | 80% | 100% | 50% |
| Conference | | 100% | 100% | 5% | 100% | 100% | 5% |
| Civic | | 100% | 20% | 5% | 10% | 10% | 5% |
| Civic Religious | | 20% | 20% | 5% | 100% | 50% | 5% |
| Total Required | | | | | | | |

16. Landscaping

a) The spacing and placement of plants shall be adequate and appropriate for the typical size, shape and habit of the plant species at maturity.

b) Landscape quantities shall be determined by **Sec. 38-7. Landscaping**.

c) Proposed trees and understory trees shall be centered horizontally and minimally:

i) Three (3) feet from walkways, curbing, and other impervious pavements;

ii) Five (5) feet from street lights, underground utilities, utility meters and service lines, fences, walls, and other ground level obstructions;

iii) Six (6) feet from porch eaves, awnings, and similar overhead obstructions associated with the ground level of buildings;

iv) Eight (8) feet from balconies, verandas, building eaves and cornices, and similar overhead obstructions associated with the upper stories of buildings.

d) Ground vegetation with spines, thorns or needles that may present hazards to pedestrians, bicyclists or vehicles are prohibited within two (2) feet of the sidewalk or street.

e) Bare and exposed ground shall be covered with live plant materials and/or mulch, including gravel mulch.

f) Artificial plants or artificial turf are prohibited.

g) Specific to DT and MS.

i) Landscape islands in interior parking lots shall only occur at the end of drive aisles. Islands should be the minimum size for healthy growth for the specific species of tree.

ii) Porous paving materials and other green infrastructure methods may be used in order to increase stormwater infiltration on site.

h) Any tree species and cultivar applicable for planting in the Downtown Las Cruces microclimate may be considered for planting within Downtown public squares, plazas, and private parcels, with the exception of those identified in **Figure 36-2-44. Prohibited Plants**.

**Figure 36-2-44. Prohibited Plants**

| BOTANICAL NAME | COMMON NAME |
|---|---|
| Pennisetum setaceum | Crimson fountaingrass |
| Tamarix spp. | Saltcedar |
| x Chitalpa | Chitalpa |
| Elaeagnus angustifolia | Russian olive |
| Brassica tournefortii | Sahara mustard |
| Peganum harmala | African rue |
| Arundo donax | Giant cane |
| Saccharum ravennae | Ravennagrass |
| Ulmus pumila | Siberian elm |
| Ailanthus altissima | Tree of heaven |

17. Streetscape

The primary use of thoroughfares is to provide access to private lots and public civic spaces. In accordance with the intent of this Section, streetscape improvements shall be designed to support several modes of transportation: public transportation, motor vehicles, and non-motorized vehicles such as bicycles and pedestrians.

a) Alley easements include one (1) bi-directional vehicular lane, within a total width alley of not less than 20 feet. The entire right-of-way should be paved and remain with clear access.

b) At the time of, and within, new or infill development trees shall be planted at an average spacing of no less than 40 feet on center within the front setback of the parcel being developed unless the front setback is less than 8 feet pursuant to **Figure 36-2-45. Public Frontage Type**.

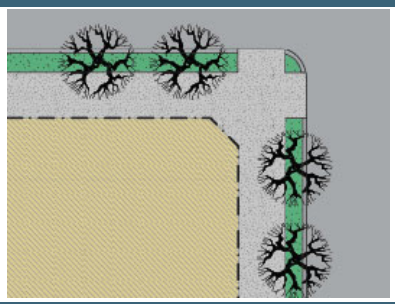
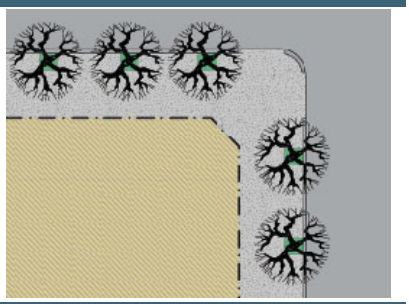
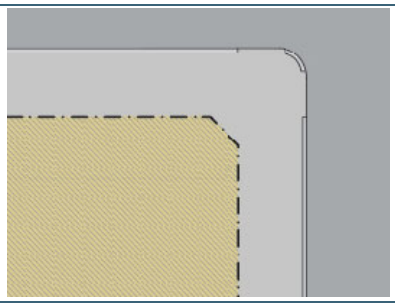
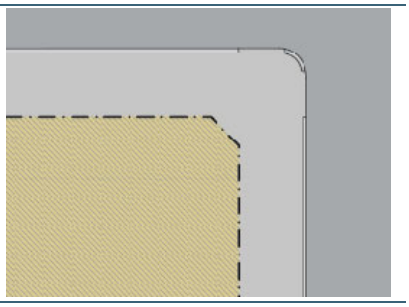
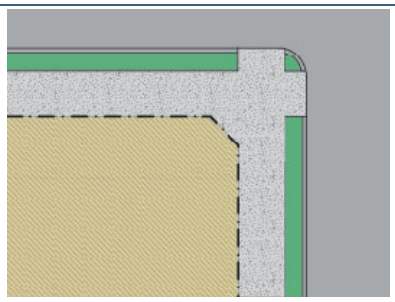
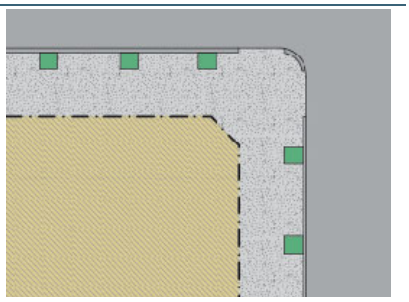
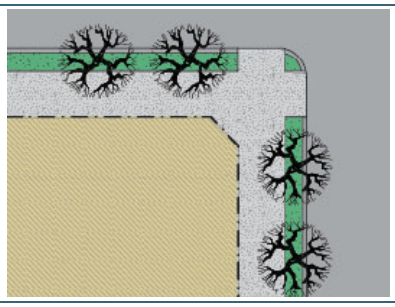
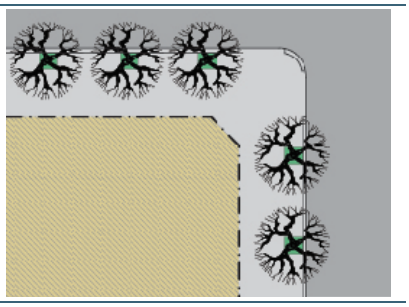
c) Streetscape improvements may be made pursuant to **Figure 36-2-45**.

i) At commercial frontages the spacing of trees may be irregular to avoid visually obscuring shopfronts.

ii) At gallery frontages, public planting is not required and public lighting may be provided within the gallery.

iii) Tree spacing may be adjusted up to 20 percent by administrative waiver to accommodate specific site conditions.

**Figure 36-2-45. Public Frontage Type**

| PUBLIC FRONTAGE TYPE | A | B |
|---|---|---|
| Assembly: The principal variance are the type and dimension of curbs, walkways, planters, and landscape. |  |  |
| Total Width | 10-20’ | 16-20’ |
| Curbing: The detailing of the edge of the vehicular way, incorporating drainage. |  |  |
| Type Cuts | Raised Curb<br>Ramp at 1:12 slope | Raised Curb<br>Ramp at 1:12 slope |
| Walkway: The portion of the thoroughfare dedicated exclusively to pedestrian activity |  |  |
| Type Width | Sidewalk<br>10-15’ | Sidewalk<br>12-16’ |
| Planter: The portion of the thoroughfare accommodating street trees and other landscape. |  |  |
| Arrangement<br>Planter Type<br>Planter Width | Opportunistic<br>Continuous<br>5’ | Opportunistic<br>Tree Well<br>4’x9’ |

18. Sidewalk Displays on Public Property.

a) *Sidewalk display* means the outdoor display of merchandise for sale to the public during regular business hours by any person, persons or organization when such merchandise is displayed on a portion of, or entirely on a public sidewalk or public place not designed for vehicular traffic.

i) All agents, employees, or representatives conducting a sidewalk display on Main Street between the roundabout and Bowman in downtown Las Cruces, shall comply with the following provisions:

a. All sidewalk displays shall only be conducted during regular business hours;

b. All displays shall be installed and removed by the business or property owner daily;

c. No booths, tables, or display merchandise shall obstruct ADA access, vehicular traffic, business entrances, or designated fire access points;

d. Sidewalk displays shall be limited to 100 square feet in total size;

e. Sidewalk displays shall only be conducted immediately in front of the permanent business located immediately adjacent to Main Street;

f. No person shall leave merchandise, booths, tables, or cases on the site of the display after the conclusion of regular business hours.

g. No person shall display merchandise of a type that is not originally sold by the permanent business located immediately adjacent to Main Street.

h. Sidewalk displays shall not include vending machines, food or beverage, outdoor lighting, or provide entertainment.

i. All debris and trash created by the sidewalk displays shall be immediately cleaned from the public property.

j. No sidewalk displays shall be allowed after the entity with which it is associated is not open to the public.

k. No permanent structure may be affixed to the sidewalk or any building. The business or property owner shall be responsible for any damage caused to the sidewalk or public property by the display;

l. The business or property owner assumes all risks with setting up a sidewalk display and shall not hold the City responsible for any accidents or loss in the installation, removal, or operation of the displays.

## Sec. 36-3. Permitted Uses and Use-Based Standards

### A. Permitted Uses

1. Permitted Use Chart

   a) The Permitted Use Chart is contained in the tables on the following pages.

   b) Land and buildings in each of the zoning districts may be used for any of the specified uses in the Permitted Use Chart. No land shall be used and no building or structure shall be erected, altered, or converted for any use other than those specified as a permitted use in the district in which the property is located.

   c) Use-Based Standards apply to uses as indicated in **Figure 36-3-2. Permitted Use Chart**. The associated standards are located in **Sec. 36-3.B. Use Classifications and Use-Based Standards**.

   d) The chart is organized by the following generalized land use groupings:

| Residential Uses | Accessory or Temporary Uses | Public and Institutional Uses | Retail, Service, and Office Uses | Commercial, Auto, Industrial, and Agricultural Uses |
|---|---|---|---|---|
| Household Living<br>Congregate Living<br>Residential Care | Accessory Uses<br>Temporary Uses | Child Care<br>Schools<br>Public/Semi-Public | Professional Office<br>Medical<br>Lodging<br>Recreational and Entertainment<br>Retail Shops and Services<br>Food and Beverage | Commercial<br>Cannabis-Related<br>Automotive and Transportation<br>Light Industrial<br>Heavy Industrial<br>Animals and Agriculture |

2. Classification of New and Unlisted Uses

   It is recognized that new types of land use will develop and forms of land use not anticipated may seek to locate in the City. In order to provide for such changes and contingencies, a determination as to the appropriate classification of any new or unlisted use shall be made as follows:

   a) The new or unlisted use will be referred to the Community Development Director who will make a determination as to the appropriate classification of the new or unlisted use based on findings of fact in relation to the nature of the use and whether it involves dwelling activity, sales, processing, type of product, storage and amount and nature thereof, enclosed or open storage, anticipated employment, transportation requirements, amount of noise, odor, fumes, light, dust, toxic material and vibration likely to be generated and the general requirements for public utilities.

   b) The Community Development Director may seek input from other sources, such as professional urban planning publications, or economic development professionals or others familiar with the proposed use.

   c) The Community Development Director shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various districts and determine the zoning district or districts within which such uses shall be permitted.

   d) In such cases that any party may be aggrieved by the decision of the Community Development Director, the matter may be appealed in accordance with **Sec. 34-3.F. Appeals**.

3. Multiple Principal Uses within a Single Site

   When multiple principal uses are included on a single site, each individual use must be permitted on that site. For example, if a Retail Store includes a Restaurant, both uses must be allowed; or if a Funeral Home includes a Crematorium, both uses must be permitted.

a) Exception: Customarily incidental uses (as determined by the Community Development Director) are included in the primary use. For example, if a Hospital includes a gift shop, a Retail Store use is not required; or if a Warehouse or Distribution Center includes an office area, a Professional Office use is not required.

4. Parking Requirements

Minimum vehicle and bicycle parking requirements are included in **Figure 36-3-2. Permitted Use Chart**. Off-street parking is not required in the Urban Character Area; MXCO, Mixed Use Corridor Overlay District; TCO, Town Center Overlay District; NCO, Neighborhood Center Overlay District; or the DDC, Downtown Development Code area. See **Sec. 38-2.N. Off-Street Parking** (specifically **Sec. 38-2.N.4. Minimum Off-Street Vehicular Parking Requirements** and **Sec. 38-2.N.5. Bicycle Parking Standards**) for more information regarding parking requirements.

**Figure 36-3-1. Legend for the Permitted Use Chart**

| Symbol | Meaning |
|---|---|
| ● | Use is permitted in district indicated |
| ○ | Use is permitted in district upon approval of a Special Use Permit; see **Sec. 36-5.C. Special Use Permits (Error! Reference source not found.**s) |
| | Use is prohibited in district indicated |
| * | Use-based standards apply; see **Sec. 36-3.B. Use Classifications and Use-Based Standards** |

**Figure 36-3-2. Permitted Use Chart**

| # - See Sec. 36-3.B. Use Classifications and Use-Based Standards | ● = Permitted<br>○ = SUP<br>* = Use-Based Standards<br><br>Uses | NH-1, Neighborhood 1 District (Rural, Suburban, Urban) | NH-2, Neighborhood 2 District (Rural, Suburban, Urban) | NH-3, Neighborhood 3 District (Rural, Suburban, Urban) | CR, Commercial/Retail District (Rural, Suburban, Urban) | LI, Light Industrial District (Rural, Suburban, Urban) | HI, Heavy Industrial District (Rural, Suburban, Urban) | OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban) | OS-2, Open Space-Drainage District (Rural, Suburban, Urban) | Min. Vehicle Parking | Min. Bicycle Parking |
|---|---|---|---|---|---|---|---|---|---|---|---|
| **Residential Uses** | | | | | | | | | | | |
| **Household Living** (Note: See **Sec. 36-2.B. Zoning DistrictsError! Reference source not found.** for maximum dwelling units per acre in each district) | | | | | | | | | | | |
| 1 | Duplex, Triplex, or Quadplex | ● | ● | ● | ○ | | | | | 1 : dwelling unit | N/A |
| 2 | Live/Work* | ● | ● | ● | ○ | | | | | 1 : dwelling unit + parking required for business | Only parking required for business |
| 3 | Manufactured Home | ● | ● | ● | | | | | | 2 : dwelling unit | N/A |
| 4 | Manufactured / Mobile Home Park (MHP)* | ○ | ○ | ○ | | | | | | 2 : dwelling unit | N/A |
| 5 | Mixed-Use* | ○ | ● | ● | ○ | | | | | Per use multiplied by 0.5 | Per use |

| # - See Sec. 36-3.B. Use Classifications and Use-Based Standards | ● = Permitted<br>○ = SUP<br>* = Use-Based Standards<br><br>Uses | NH-1, Neighborhood 1 District (Rural, Suburban, Urban) | NH-2, Neighborhood 2 District (Rural, Suburban, Urban) | NH-3, Neighborhood 3 District (Rural, Suburban, Urban) | CR, Commercial/Retail District (Rural, Suburban, Urban) | LI, Light Industrial District (Rural, Suburban, Urban) | HI, Heavy Industrial District (Rural, Suburban, Urban) | OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban) | OS-2, Open Space-Drainage District (Rural, Suburban, Urban) | Min. Vehicle Parking | Min. Bicycle Parking |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 6 | Mobile Home* | ● | ● | ● | | | | | | 2: dwelling unit | N/A |
| 7 | Multi-Family Dwelling* | ● | ● | ● | ○ | | | | | 1 : dwelling unit | 1 : 4 dwelling units |
| 8 | Single-Family Home | ● | ● | ● | | | | | | 2 : dwelling unit | N/A |
| 9 | Townhouse* | ● | ● | ● | ○ | | | | | 2 : dwelling unit | 1 : 2 bedrooms |
| **Congregate Living** | | | | | | | | | | | |
| 10 | Boarding House or Hostel | ○ | ● | ● | | | | | | 1 : bedroom + 1 : employee | 1 : 2 bedrooms |
| 11 | Fraternity or Sorority House | ○ | ● | ● | | | | | | 0.5 : bedroom | 1 : 2 bedrooms |
| **Residential Care** | | | | | | | | | | | |
| 12 | Assisted Living | ○ | ● | ● | | | | | | 1 : 4 beds + 1 : 2 employees on maximum shift | 1 : 5 employees on maximum shift |
| 13 | Community Residence (Licensed for Persons with Disabilities) | ● | ● | ● | | | | | | 1 : 4 beds + 1 : 2 employees on maximum shift | 1 : 5 employees on maximum shift |
| 14 | Community Residence (Other) | ○ | ● | ● | | | | | | 1 : 2 employees on maximum shift | 1 : 5 employees on maximum shift |
| 15 | Halfway House | ○ | ○ | ○ | | | | | | 1 : 2 employees on maximum shift | 1 : 5 employees on maximum shift |
| 16 | Independent Senior Living | ○ | ● | ● | | | | | | 1 : dwelling unit | 1 : dwelling unit |
| 17 | Nursing Home | ○ | ○ | ● | ● | | | | | 1 : 4 beds + 1 : 2 employees | 1 : 20 beds + 1 : 5 employees on maximum shift |
| 18 | Sober Living House | ● | ● | ● | | | | | | 1 : 2 employees on maximum shift | 1 : 5 employees on maximum shift |
| **Accessory or Temporary Uses** | | | | | | | | | | | |
| **Accessory Uses** | | | | | | | | | | | |
| 19 | Accessory Dwelling* | ● | ● | ● | | | | | | N/A | N/A |
| 20 | Accessory Structures* | ● | ● | ● | | | | | | N/A | N/A |

| # - See Sec. 36-3.B. Use Classifications and Use-Based Standards | ● = Permitted<br>○ = SUP<br>* = Use-Based Standards<br><br>Uses | NH-1, Neighborhood 1 District (Rural, Suburban, Urban) | NH-2, Neighborhood 2 District (Rural, Suburban, Urban) | NH-3, Neighborhood 3 District (Rural, Suburban, Urban) | CR, Commercial/Retail District (Rural, Suburban, Urban) | LI, Light Industrial District (Rural, Suburban, Urban) | HI, Heavy Industrial District (Rural, Suburban, Urban) | OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban) | OS-2, Open Space-Drainage District (Rural, Suburban, Urban) | Min. Vehicle Parking | Min. Bicycle Parking |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 21 | Animal Raising (Accessory)* | ● | ● | ● | ● | ● | ● | ○ | | N/A | N/A |
| 22 | Drive-Thru* | | ○ | ● | ● | ● | | | | N/A | N/A |
| 23 | Home Occupation* | ● | ● | ● | | | | | | N/A | N/A |
| 24 | Outdoor Display (Permanent) | | | ● | ● | ● | ● | | | 1 : 1,000 sqft of display area | N/A |
| 25 | Outdoor Storage* | | | | ○ | ● | ● | | | 1 : employee on maximum shift or 1 : 10,000 sqft of storage area | N/A |
| 26 | Pools and Recreational Courts | ● | ● | ● | ● | | | | | 1 : 250 sqft of accompanying floor area where patrons circulate, sit, or congregate or 1 : 750 sqft of all gross surfaces | 1 : 1,250 sqft of accompanying floor area where patrons circulate, sit, or congregate or 1 : 3,750 sqft of all gross surfaces |
| 27 | Solar Energy System (Accessory)* | ● | ● | ● | ● | ● | ● | | | N/A | N/A |
| 28 | Walk-Up Window* | ● | ● | ● | ● | | | | | N/A | N/A |
| 29 | Wind Energy System (Accessory)* | ● | ● | ● | ● | ● | ● | | | N/A | N/A |
| **Temporary Uses** | | | | | | | | | | | |
| 30 | Concrete Batch Plant (Temporary) | ○ | ○ | ○ | ● | ● | ● | | | 1 : employee on maximum shift | 1 : 5 employees on maximum shift |
| 31 | Construction Building (Temporary) | ● | ● | ● | ● | ● | ● | | | 1 : 400 sqft | 1 : 5 employees on maximum shift |
| 32 | Construction Yard (Temporary) | ● | ● | ● | ● | ● | ● | | | 1 : employee on maximum shift | 1 : 5 employees on maximum shift |
| 33 | Outdoor Display (Temporary)* | ● | ● | ● | ● | ● | ● | | | 1 : 1,000 sqft of display area | 1 : 5 employees or 1 : 2,000 sqft |
| 34 | Real Estate Office (Temporary)* | ● | ● | ● | ● | ● | ● | | | 1 : 400 sqft | 1 : 5 employees |
| 35 | Seasonal/Temporary Sales or Use* | ● | ● | ● | ● | ● | ● | | | 1 : 1,000 sqft of sales area + 1 : employee at maximum shift | 1 : 5 employees or 1 : 2,000 sqft |

| # - See Sec. 36-3.B. Use Classifications and Use-Based Standards | ● = Permitted<br>○ = SUP<br>* = Use-Based Standards<br><br>Uses | NH-1, Neighborhood 1 District (Rural, Suburban, Urban) | NH-2, Neighborhood 2 District (Rural, Suburban, Urban) | NH-3, Neighborhood 3 District (Rural, Suburban, Urban) | CR, Commercial/Retail District (Rural, Suburban, Urban) | LI, Light Industrial District (Rural, Suburban, Urban) | HI, Heavy Industrial District (Rural, Suburban, Urban) | OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban) | OS-2, Open Space-Drainage District (Rural, Suburban, Urban) | Min. Vehicle Parking | Min. Bicycle Parking |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | |
| **Public and Institutional Uses** | | | | | | | | | | | |
| **Child Care** | | | | | | | | | | | |
| 36 | Child Care Center* | ○ | ○ | ● | ● | | | | | 2 spaces + 1: 10 children | 1 : 30 children |
| 37 | Child Care Home (≤6)* | ● | ● | ● | | | | | | N/A | N/A |
| 38 | Group Child Care Home (7-12)* | ○ | ● | ● | | | | | | 1 additional space | 1 additional space |
| **Schools** | | | | | | | | | | | |
| 39 | School (K-8)* | ● | ● | ● | ● | | | | | 2 : classroom | 10 : classroom |
| 40 | School (9-12)* | ● | ● | ● | ● | | | | | 4: classroom + 1: 250 sqft in assembly areas | 6 : classroom |
| 41 | School (College or University)* | ○ | ● | ● | ● | | | | | 1 : 600 sqft of indoor area | 1: 1,500 sqft of indoor area |
| 42 | School (Commercial, Trade, or Technical) | ● | ● | ● | ● | ● | | | | 1 : 500 sqft | 1 : 1,500 sqft |
| **Public/Semi-Public** | | | | | | | | | | | |
| 43 | Cemetery or Columbarium* | | | | ● | | | | | 1: 500 sqft of assembly areas | 1: 1,500 sqft of assembly area |
| 44 | City Facility or Building | ● | ● | ● | ● | ● | ● | ● | | As specified for use | As specified for use |
| 45 | Community Building or Banquet Center | ○ | ● | ● | ● | | | | | 1 : 250 sqft | 1 : 1,000 sqft of assembly area |
| 46 | Community Garden | ● | ● | ● | ● | ● | ● | ● | | 1 : 5,000 sqft | 1 : 10,000 sqft |
| 47 | Convention Center or Exhibition Hall | | | | ● | | | | | 1 : 5 maximum occupancy | 1 : 75 maximum occupancy |
| 48 | Correctional Facility | | | | | ● | ● | | | 1 : 1,000 sqft + 1 : employee on maximum shift | 1 : 20 employees on maximum shift |

| # - See Sec. 36-3.B. Use Classifications and Use-Based Standards | ● = Permitted<br>○ = SUP<br>* = Use-Based Standards<br><br>Uses | NH-1, Neighborhood 1 District (Rural, Suburban, Urban) | NH-2, Neighborhood 2 District (Rural, Suburban, Urban) | NH-3, Neighborhood 3 District (Rural, Suburban, Urban) | CR, Commercial/Retail District (Rural, Suburban, Urban) | LI, Light Industrial District (Rural, Suburban, Urban) | HI, Heavy Industrial District (Rural, Suburban, Urban) | OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban) | OS-2, Open Space-Drainage District (Rural, Suburban, Urban) | Min. Vehicle Parking | Min. Bicycle Parking |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 49 | Landfill | | | | | | ● | | | 1 : 400 sqft of office | N/A |
| 50 | Library or Museum | ● | ● | ● | ● | | | | | 1 : 600 sqft | 1 : 1,000 sqft |
| 51 | Place of Worship | ● | ● | ● | ● | | | | | 1 : 200 sqft of assembly area | 1: 1,000 sqft of assembly area |
| 52 | Public Park* | ● | ● | ● | ● | | | ● | | Based on facilities provided | Based on facilities provided |
| 53 | Public Utilities (Major)* | ● | ● | ● | ● | | | | ● | N/A | N/A |
| 54 | Public Utilities (Minor)* | ● | ● | ● | ● | | | | ● | N/A | N/A |
| 55 | Recycling Drop-Off Point | | | | ● | ● | ● | | | 1 : employee on maximum shift | 1: 5 employees on maximum shift |
| 56 | Waste or Recycling Processing Facility | | | | | ○ | ● | | | 1 : 400 sqft of office or 1 : employee on maximum shift | 1: 20 employees on maximum shift |
| **Retail, Service, and Office Uses** | | | | | | | | | | | |
| **Professional Office** | | | | | | | | | | | |
| 57 | Professional Office (Local)* | ● | ● | ● | ● | ● | ○ | | | 1 : 450 sqft | 1 : 8,000 sqft |
| 58 | Professional Office (Regional) | | | ● | ● | ● | ○ | | | 1 : 450 sqft | 1 : 8,000 sqft |
| **Medical** | | | | | | | | | | | |
| 59 | Emergency Room (Standalone)* | | | ● | ● | | | | | 1 : 3 beds | 1 : 20 employees on maximum shift |
| 60 | Hospital* | | | ○ | ● | | | | | 1 : 3 beds or 3 : 1,000 sqft | 1 : 20 employees on maximum shift |
| 61 | Medical Clinic or Office | | ○ | ● | ● | | | | | 1 : 450 sqft | 1 : 2,000 sqft |
| 62 | Medical or Research Laboratory | | | ○ | ● | | | | | 1 : 1,000 sqft | 1 : 20 employees on maximum shift |
| 63 | Urgent Care | | ○ | ● | ● | | | | | 1 : 400 sqft or 2 : exam room | 1 : 2,500 sqft |
| **Lodging** | | | | | | | | | | | |

| # - See Sec. 36-3.B. Use Classifications and Use-Based Standards | ● = Permitted<br>○ = SUP<br>* = Use-Based Standards<br><br>Uses | NH-1, Neighborhood 1 District (Rural, Suburban, Urban) | NH-2, Neighborhood 2 District (Rural, Suburban, Urban) | NH-3, Neighborhood 3 District (Rural, Suburban, Urban) | CR, Commercial/Retail District (Rural, Suburban, Urban) | LI, Light Industrial District (Rural, Suburban, Urban) | HI, Heavy Industrial District (Rural, Suburban, Urban) | OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban) | OS-2, Open Space-Drainage District (Rural, Suburban, Urban) | Min. Vehicle Parking | Min. Bicycle Parking |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 64 | Bed and Breakfast* | ○ | ● | ● | ● | | | | | 0.5 : bedroom | 1 : 5 employees |
| 65 | Campground* | | | | ● | ● | | ● | | 1 : camp site + 1: 400 sqft office space | 1 : 5 employees |
| 66 | Hotel or Motel | | ○ | ● | ● | ○ | | | | 0.75 : room + 1 : 800 sqft of other uses | 1 : 5 employees on maximum shift + 1 : 20 rooms |
| 67 | Recreational Vehicle Park* | | | | ● | ● | | | | 1 : RV space + 1 : 2 employees | 1 : 5 employees |
| **Recreational and Entertainment** | | | | | | | | | | | |
| 68 | Botanical Garden | ● | ● | | | | | ● | | Parking study required | 1 : 20 auto spaces |
| 69 | Golf Course* | ● | ● | ● | ● | ● | | ● | | 30 : 9 holes | 1 : 9 holes |
| 70 | Indoor Entertainment | | ○ | ● | ● | ● | ● | | | 1 : 3 persons maximum capacity | 1 : 20 persons maximum capacity |
| 71 | Outdoor Entertainment* | | ○ | ● | ● | ● | ● | | | 3 : 1,000 sqft | 1 : 2,500 sqft |
| **Retail Shops and Services** | | | | | | | | | | | |
| 72 | Adult Business* | | | | ○ | ○ | | | | 1 : 350 sqft | 1 : 6,000 sqft |
| 73 | Art Studio or Instruction | ○ | ● | ● | ● | | | | | 1 : 450 sqft or 1 : student | 1 : 2,500 or 1 : 5 students |
| 74 | Bank or Financial Institution | | ● | ● | ● | | | | | 1 : 450 sqft | 1 : 8,000 sqft |
| 75 | Flea Market | | | ● | ● | | | | | 1 : 400 sqft of vendor area + 1 : food vendor | 1 : 20 auto spaces |
| 76 | Gas Station* | ○ | ○ | ● | ● | ● | ○ | | | 1 : 300 sqft | 1 : 2,000 sqft |
| 77 | Grocery (Local) | ● | ● | ● | ● | | | | | 1 : 350 sqft | 1 : 6,000 sqft |
| 78 | Grocery (Regional)* | | | ● | ● | ● | | | | 1 : 350 sqft | 1 : 6,000 sqft |
| 79 | Liquor or Package Store* | | | | ● | ● | | | | 1 : 400 sqft | 1 : 800 sqft |
| 80 | Payday Loans, Check Cashing, or Bail Bonds | | ○ | ○ | ● | | | | | 1 : 450 sqft | 1 : 8,000 sqft |
| 81 | Pawn Shop | | | ● | ● | ● | | | | 1 : 400 sqft | 1 : 3,000 sqft |

| # - See Sec. 36-3.B. Use Classifications and Use-Based Standards | ● = Permitted<br>○ = SUP<br>* = Use-Based Standards<br><br>Uses | NH-1, Neighborhood 1 District (Rural, Suburban, Urban) | NH-2, Neighborhood 2 District (Rural, Suburban, Urban) | NH-3, Neighborhood 3 District (Rural, Suburban, Urban) | CR, Commercial/Retail District (Rural, Suburban, Urban) | LI, Light Industrial District (Rural, Suburban, Urban) | HI, Heavy Industrial District (Rural, Suburban, Urban) | OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban) | OS-2, Open Space-Drainage District (Rural, Suburban, Urban) | Min. Vehicle Parking | Min. Bicycle Parking |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 82 | Personal Services | | ● | ● | ● | | | | | 1 : 450 sqft | 1 : 8,000 sqft |
| 83 | Retail Store (Local)* | ○ | ● | ● | ● | ○ | ○ | | | 1 : 400 sqft | 1 : 3,000 sqft |
| 84 | Retail Store (Regional)* | | | ● | ● | ○ | ○ | | | 1 : 450 sqft | 1 : 4,000 sqft |
| 85 | Retail Store (Sundry)* | ○ | ● | ● | ● | | | | | 1 : 400 sqft | 1 : 3,000 sqft |
| 86 | Shopping Center* | | ● | ● | ● | ○ | | | | 1 : 450 sqft | 1 : 4,000 sqft |
| | **Food and Beverage** | | | | | | | | | | |
| 87 | Bar* | | | ● | ● | ● | | | | 1 : 500 sqft | 1 : 1,000 sqft |
| 88 | Cafe* | ● | ● | ● | ● | | | | | 1 : 300 sqft | 1 : 1,000 sqft |
| 89 | Food Truck Park* | | ○ | ● | ● | ● | | | | 2 : 1,000 sqft of area where patrons eat, queue, or congregate | 1 : 10 auto spaces |
| 90 | Private Club or Lodge | | | ● | ● | ● | | | | 1 : 500 sqft | 1 : 1,000 sqft |
| 91 | Restaurant | | ○ | ● | ● | ● | ○ | | | 1 : 300 sqft | 1 : 1,000 sqft |
| 92 | Tap Room or Tasting Room* | | | ● | ● | ● | | | | 1 : 500 sqft (tasting room only) | 1 : 2,000 sqft (tasting room only) |
| | **Commercial, Auto, Industrial, and Agricultural Uses** | | | | | | | | | | |
| | **Commercial** | | | | | | | | | | |
| 93 | Catering or Commercial Off-Site Kitchen | | | ● | ● | ● | | | | 1 : 500 sqft | 1 : 5 employees on maximum shift |
| 94 | Contractors Yard or Building Material Sales* | | | | ● | ● | ● | | | 1 : 1,000 sqft office space | 1 : 5 employees on maximum shift |
| 95 | Crematorium | | | | | ● | ● | | | 1 : 800 sqft | 1 : 5 employees on maximum shift |
| 96 | Dispatch Service | | | ● | ● | ● | | | | 1 : 400 sqft | 1 : 5 employees on maximum shift |
| 97 | Dry Cleaning Plant | | | | ● | ● | | | | 1 : 1,000 sqft | 1 : 5 employees on maximum shift |

| # - See Sec. 36-3.B. Use Classifications and Use-Based Standards | ● = Permitted<br>○ = SUP<br>* = Use-Based Standards<br><br>Uses | NH-1, Neighborhood 1 District (Rural, Suburban, Urban) | NH-2, Neighborhood 2 District (Rural, Suburban, Urban) | NH-3, Neighborhood 3 District (Rural, Suburban, Urban) | CR, Commercial/Retail District (Rural, Suburban, Urban) | LI, Light Industrial District (Rural, Suburban, Urban) | HI, Heavy Industrial District (Rural, Suburban, Urban) | OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban) | OS-2, Open Space-Drainage District (Rural, Suburban, Urban) | Min. Vehicle Parking | Min. Bicycle Parking |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 98 | Equipment Rental, Sales, or Repairs | | | ● | ● | ● | ● | | | 1 : 400 sqft office space | 1 : 5 employees on maximum shift |
| 99 | Film Staging or Production Studios | | | | ● | ● | ● | | | 1 : 500 sqft | 1 : 20 employees on maximum shift |
| 100 | Funeral Home | | | ● | ● | ● | | | | 1 : 500 sqft | 1 : 2,000 sqft |
| 101 | Industrial Printing or Distribution | | | | ● | ● | | | | 1 : 1,000 sqft | 1 : 20 employees on maximum shift |
| 102 | Manufactured Housing or Building Sales | | | | ● | ● | ● | | | 1 : 450 sqft office space | 1 : 8,000 sqft |
| 103 | Postal or Printing Services | | ○ | ● | ● | ● | ○ | | | 1 : 1,000 sqft. | 1 : 5 employees on maximum shift |
| 104 | Repair Shop | | ● | ● | ● | ● | | | | 1 : 500 sqft or 1 : employee on maximum shift | 1 : 5 employees on maximum shift |
| 105 | Self-Storage Warehouse | | | | ● | ● | ● | | | None if units have direct vehicular access; if not, 1 : 4,000 sqft | 1 : 5 employees on maximum shift |
| 106 | Wireless Communication Facilities* | ○ | ● | ● | ● | ● | ● | ● | | 1 space | N/A |
| **Cannabis-Related** | | | | | | | | | | | |
| 107 | Cannabis Dispensary* | | | ○ | ● | | | | | 1 : 400 sqft | 1 : 3,000 sqft |
| 108 | Cannabis Production | | | ○ | ● | ● | ● | | | 1 : employee on maximum shift | 1 : 5 employees on maximum shift |
| 109 | Integrated Cannabis Business* | | | ○ | ● | ● | | | | 1 : 1,000 sqft | 1 : 20 employees on maximum shift |
| **Automotive and Transportation** | | | | | | | | | | | |
| 110 | Auto Sales or Rental* | | | ● | ● | ● | | | | 1 : 500 sqft showroom + office | 1 : 5 employees on maximum shift |
| 111 | Auto Repair and Services (Major)* | | | | ● | ● | | | | 5 : service bay + 1 : employee on maximum shift | 1 : 5 employees on maximum shift |

| # - See Sec. 36-3.B. Use Classifications and Use-Based Standards | ● = Permitted<br>○ = SUP<br>* = Use-Based Standards<br><br>Uses | NH-1, Neighborhood 1 District (Rural, Suburban, Urban) | NH-2, Neighborhood 2 District (Rural, Suburban, Urban) | NH-3, Neighborhood 3 District (Rural, Suburban, Urban) | CR, Commercial/Retail District (Rural, Suburban, Urban) | LI, Light Industrial District (Rural, Suburban, Urban) | HI, Heavy Industrial District (Rural, Suburban, Urban) | OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban) | OS-2, Open Space-Drainage District (Rural, Suburban, Urban) | Min. Vehicle Parking | Min. Bicycle Parking |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 112 | Auto Repair and Services (Minor)* | | | ● | ● | ● | | | | 3 : service bay + 1 : employee on maximum shift | 1 : 5 employees on maximum shift |
| 113 | Car Wash* | | ○ | ● | ● | ● | | | | 2 : service lane | 1 : 5 employees on maximum shift |
| 114 | Commercial Parking Lot or Garage* | | ○ | ● | ● | ● | | | | N/A | 1 : 20 auto spaces |
| 115 | Heliport/Helistop* | | | | ○ | ○ | ○ | | | N/A if accessory use; 2 spaces if primary use | N/A |
| 116 | Passenger Transportation Terminal* | | | | ● | ● | | | | 1 : 300 sqft | 1 : 500 sqft |
| 117 | Salvage or Wrecking Yard* | | | | | ○ | ● | | | 1 : 1,500 sqft of yard area + 1 : 400 sqft of office space | 1 : 5 employees on maximum shift |
| 118 | Semi-Truck Wash | | | | | ● | ● | | | 2 : service lane | N/A |
| 119 | Truck, Trailer, Boat, and RV Sales or Rental | | | | ● | ● | | | | 1 : 500 sqft showroom + office | 1 : 5 employees on maximum shift |
| **Light Industrial** | | | | | | | | | | | |
| 120 | Animal Processing (Slaughterhouse) | | | | | ● | ● | | | 1 : 1,000 sqft | 1 : 20 employees on maximum shift |
| 121 | Animal Processing (Taxidermy) | | | | ● | ● | ● | | | 1 : 1,000 sqft | 1 : 5 employees on maximum shift |
| 122 | Artisan Manufacturing* | ○ | ○ | ● | ● | ● | ● | | | 1 : 1,000 sqft | 1 : 20 employees on maximum shift |
| 123 | Data Center* | | | | ○ | ● | ● | | | 1 : 1,000 sqft | 1 : 20 employees on maximum shift |
| 124 | Hazardous Chemical Manufacturing or Storage | | | | | ● | ● | | | 1 : 1,000 sqft | 1 : 20 employees on maximum shift |
| 125 | Manufacturing or Fabricating* | | | | | ● | ● | | | 1 : 1,000 sqft | 1 : 20 employees on maximum shift |
| 126 | Warehouse or Distribution Center | | | | | ● | ● | | | 1 : 1,000 sqft | 1 : 20 employees on maximum shift |
| **Heavy Industrial** | | | | | | | | | | | |

| # - See Sec. 36-3.B. Use Classifications and Use-Based Standards | ● = Permitted<br>○ = SUP<br>* = Use-Based Standards<br><br>Uses | NH-1, Neighborhood 1 District (Rural, Suburban, Urban) | NH-2, Neighborhood 2 District (Rural, Suburban, Urban) | NH-3, Neighborhood 3 District (Rural, Suburban, Urban) | CR, Commercial/Retail District (Rural, Suburban, Urban) | LI, Light Industrial District (Rural, Suburban, Urban) | HI, Heavy Industrial District (Rural, Suburban, Urban) | OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban) | OS-2, Open Space-Drainage District (Rural, Suburban, Urban) | Min. Vehicle Parking | Min. Bicycle Parking |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 127 | Above-Ground Storage Tanks for Hazardous Materials* | | | | | | ● | | | 1 : installation | N/A |
| 128 | Energy Production or Refinement | | | | | | ● | | | 1 : 400 sqft office + 1 : employee on maximum shift | 1 : 20 employees on maximum shift |
| 129 | Excavation of Raw Materials* | | | | ○ | ● | ● | | | 1 employee on maximum shift | 1 : 20 employees on maximum shift |
| | **Animals and Agriculture** | | | | | | | | | | |
| 130 | Animal Raising (Commercial Feed Lots)* | | | | | | ○ | | | 1 : employee on maximum shift | 1 : 5 employees on maximum shift |
| 131 | Animal Raising (General Agriculture)* | ● | ● | | | | ● | | | N/A | N/A |
| 132 | Animal Services (Indoor Only)* | ○ | ● | ● | ● | ● | | | | 1 : employee on maximum shift | 1 : 5 employees on maximum shift |
| 133 | Animal Services (With Outdoor Pens) | ○ | ○ | ○ | ● | ● | | | | 1 : employee on maximum shift | 1 : 5 employees on maximum shift |
| 134 | Commercial Crop Farming | ○ | | ● | ● | ● | ○ | | | 1 : employee on maximum shift | 1 : 5 employees on maximum shift |
| 135 | Indoor Agriculture | ○ | ○ | ○ | ● | ● | ● | | | 1 : employee on maximum shift | 1 : 5 employees on maximum shift |
| 136 | Plant Nursery | | ● | ● | ● | ● | | | | 1 : 400 sqft of enclosed space | 1 : 10,000 sqft enclosed space + 1 : 5 employees on maximum shift |
| 137 | Stables or Training | ○ | | | ○ | ● | ● | | | 1 : employee on maximum shift | 1 : 5 employees on maximum shift |
| 138 | Wind or Solar Farm | ○ | | | ○ | ● | ● | | | N/A | N/A |

## B. Use Classifications and Use-Based Standards

### Residential Uses

#### Household Living

**1. Duplex, Triplex, or Quadplex**

**CLASSIFICATION**

A building or buildings designed for two, three, or four units situated on a single lot.

**2. Live/Work**

**CLASSIFICATION**

A single building developed with a nonresidential use including, but not limited to, office and retail uses, where the proprietor of the nonresidential use resides in an attached dwelling unit above or adjacent to the establishment.

**STANDARDS**

The nonresidential use must be permitted within the district and be accessible from the main street frontage. No portion of the complete unit may be separately leased or sold.

**3. Manufactured Home**

**CLASSIFICATION**

A manufactured home that is a multi-section (also known as a double-wide) single-family dwelling constructed in a factory to the standards of the United States Department of Housing and Urban Development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 or the Uniform Building Code, as amended to the date of the unit's construction, and installed consistent with the Manufactured Housing Act and with the rules made pursuant thereto relating to permanent foundations.

**STANDARDS**

In accordance with NMSA 3-21A-3, multi-section (also known as double-wide) Manufactured Homes are permitted in any district that a site-built home is permitted, subject to the same requirements (e.g., parking, landscaping, lot dimensions). Manufactured Homes located in a Manufactured Home Park are subject to the requirements outlined in #4 Manufactured / Mobile Home Park (MHP) below.

**4. Manufactured / Mobile Home Park (MHP)**

**CLASSIFICATION**

A privately owned tract of land, at least five acres in size, used for the continuous accommodation of 12 or more occupied Manufactured or Mobile Homes and operated for the pecuniary benefit of the owner of the parcel of land, the owner's agents, lessees, or assigns.

**STANDARDS**

1. Each Manufactured/ Mobile Home (MH) to be located in an MHP shall require a manufactured/ mobile home installation permit (MHIP). The owner of an MH unit shall receive an MHIP prior to locating the MH unit in the MHP. All site-built structures (e.g., carport) are required to have a building permit.

2. Permitted uses in an MHP.

a. Homes (including double manufactured - or single-wide mobile homes) or site-built homes with complete hookup to utilities.

b. Accessory structures, swimming pools, home occupations, and recreation areas and buildings.

c. Convenience establishments of a commercial nature, including laundries, stores, beauty shops, and barbershops, may be permitted in MHPs, subject to the following restrictions:

i) Such establishments and their parking area shall not occupy more than seven percent of the area of the park;

ii) Shall be discontinued if the Manufactured Home Park is discontinued;

iii) Shall be located, designed, and intended to serve frequent trade or service needs of persons residing in the park only; and

iv) Shall present no visible evidence of their commercial character outside the park.

3. Individual Manufactured Home Spaces (MHS) within an MHP shall have a minimum area of 3,500 square feet, with a minimum width or depth dimension of 35 feet.

4. No structure within an MHP shall not exceed 35 feet in height.

5. Setbacks and spacing (minimum including awnings, canopies, decks, and any other structures attached to, adjacent to, or touching a manufactured home):

a. Dwelling unit front setback: 10′.

b. Dwelling unit side setback: 5′.

c. Dwelling unit rear setback: 10′.

d. MHP boundary to any dwelling unit within the MHP: 10′, except adjacent to public right-of-way.

e. MHP boundary to any dwelling unit within the MHP: 25′ adjacent to public right-of-way.

f. Carport requirements refer to Figure 36-4-4.

6. Development Standards

a. Other Applicable Regulations. All City requirements must be met unless specifically noted herein, including but not limited to landscaping, sidewalks, signs, streetlighting, and off-street parking. All federal, state, and local accessibility requirements shall be met.

b. Screening. All MHPs shall have opaque perimeter walls and/or fences at least five feet in height installed prior to the issuance of a certificate of occupancy for the MHP or each phase of the MHP. Each MHS shall have a wall and/or fence defining the MHS.

c. Utilities. Utility placement shall be approved by the Utilities Department Director.

d. Streets.

i) All MHPs shall have direct motor vehicle access from a collector or higher designated roadway. Each mobile home space shall have direct access to an internal street. Direct access to exterior public streets is prohibited.

ii) No internal street intersections shall be less than 125 feet from MHP entrances/exits or other internal street intersections. Each intersection, internal and external, shall be designed as close to 90 degrees as possible.

iii) All streets within an MHP shall meet the following minimum widths:

**Figure 36-3-3. Required Pavement Width by Roadway Type**

| Parking Permitted* | Local, one way (Serving fewer than 20 MHS) | Local, two way (Serving 20 to 50 MHS) | Collector (Serving more than 50 MHS) |
|---|---|---|---|
| No | 14′ | 18′ | 20′ |
| One side | 18′ | 27′ | 29′ |
| Both sides | 27′ | 36′ | 38′ |

* Parallel parking lanes are to be striped at nine feet in width.

e. Sidewalks. There shall be a network of sidewalks at least five feet in width connecting mobile home spaces with each other and with MHP facilities.

f. Drainage. All MHS and streets shall be designed to ensure proper drainage. A complete drainage plan including elevations and drainage calculations shall be approved by the Community Development Director. No on-lot retention ponds are to be incorporated within the drainage plan for MHPs.

g. Refuse. The management of a MHP shall provide adequate refuse collection facilities. These collection facilities shall be constructed and maintained in accordance with all municipal health regulations, shall be properly screened, and shall be designed to bar animals from access to refuse. Refuse shall be removed from collection sites at least once a week.

h. Vehicle Storage Areas. MHP may have a storage yard for recreational and other vehicles. Such storage yards shall have a minimum of 60 square feet of storage area per MHS in the development and shall be located so as not to detract from surrounding properties. All recreational and other vehicles shall be parked in the storage yard while not in use.

i. Personal Storage Options. Each mobile home space may have a personal storage unit provided by the MHP owner or tenant. If provided by the MHP owner, such storage shall be at least six feet in height with a storage capacity of at least 300 cubic feet. Each storage unit shall be anchored permanently to the ground. The storage unit may be located on the mobile home space lot line. As an option to storage units being located on individual mobile home spaces by the MHP owner, storage units may be grouped into a mini-storage building arrangement. At least 300 cubic feet of storage space per MHS shall be provided.

### 5. Mixed-Use

**CLASSIFICATION**

A building developed with two or more different uses including, but not limited to, residential, office, retail, public, or entertainment uses connected above or adjacent to each other. Individual uses within the building are permitted in accordance with those allowed in the same district.

**STANDARDS**

1. Uses – At least 75% of the first story of the structure shall be used for nonresidential use. The remaining portion of the structure above the first story may be used for either residential or nonresidential uses, or a combination of both.

2. Amenities and Open Space – If 13 or more units are provided, the amenities and open space requirements in **Sec. 36-4.C.6. Additional Multi-Family Residential Amenities** shall also apply.

### 6. Mobile Home

**CLASSIFICATION**

A movable or portable housing structure 400 square feet or larger, designed for and occupied by no more than one family for living and sleeping purposes that is not constructed to the standards of the United States department of housing and urban development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 or Uniform Building Code, as amended to the date of the unit's construction or built to the standards of the municipal building code.

**STANDARDS**

Mobile Homes are only allowed in certain cases (e.g., replacing an existing Mobile Home with a safer Mobile Home). See **Sec. 36-5.G. Nonconformities**.

### 7. Multi-Family Dwelling

**CLASSIFICATION**

A residential building designed for occupancy by tenants living independently of one another, excluding a hotel or motel.

**STANDARDS**

A courtyard, plaza, community garden, or other common greenspace is required (400 sqft minimum).

### 8. Single-Family Home

**CLASSIFICATION**

A detached dwelling unit designed and used exclusively for the residence by one family household or one group of lessees. This classification also includes multiple detached dwelling units located on a single property primarily occupied by a family unit.

### 9. Townhouse

**CLASSIFICATION**

A group of two (2) or more attached single-family units, each of which is on an individually platted lot, that share at least one common wall with another unit.

**STANDARDS**

No interior side yard is required and lot width/area is modified in accordance with **Sec. 36-4. Additional Dimensional and Building Design Standards**.

## Congregate Living

### 10. Boarding House or Hostel

**CLASSIFICATION**

A dwelling with more than two rooms that are intended to be rented but which rooms, individually or collectively, do not constitute separate dwelling units, where for compensation and by pre-arrangement for more than two weeks, food and lodging are provided.

### 11. Fraternity or Sorority House

**CLASSIFICATION**

A dwelling with sleeping rooms or a dormitory used for occupancy by individuals in a recognized organization, and in which kitchen facilities are for the common use of all occupants.

## Residential Care

### 12. Assisted Living

**CLASSIFICATION**

A facility providing residence, supervision, and daily assistance for individuals with common dining and recreational areas designed for the needs of the elderly or disabled. Services in these establishments include personal services such as assistance with dressing, grooming, bathing, and social and recreational services, such as meal services, transportation, housekeeping, linen and organized social activities and administration of medication by a person licensed or otherwise authorized in this state to administer the medication.

### 13. Community Residence (Licensed for Persons with Disabilities)

**CLASSIFICATION**

A State-licensed residence for persons who are physically disabled, developmentally disabled, psychiatrically disabled, or mentally ill. Per NMSA 3-21-1C, “All state-licensed or state-operated community residences for persons with a mental or developmental disability and serving ten or fewer persons may be considered a residential use of property for purposes of zoning and may be permitted use in all districts in which residential uses are permitted generally, including particularly residential zones for single-family dwellings.”

### 14. Community Residence (Other)

**CLASSIFICATION**

A community residence not elsewhere classified (e.g., homeless shelter or unlicensed group home).

### 15. Halfway House

**CLASSIFICATION**

The residents of halfway houses may be court mandated to live there, and a resident may be coming from a correctional facility rather than a substance use treatment program. As well as serving as a residence, halfway houses provide social, medical, psychiatric, educational, and other similar services. They are termed "halfway houses" due to their being halfway between completely independent living and in-patient or carceral facilities, where residents are highly restricted in their behavior and freedoms.

### 16. Independent Senior Living

**CLASSIFICATION**

An establishment providing dwelling units specifically designed for the needs of older people. In addition to housing, this type of facility provides convenience services, such as meals, housekeeping, and transportation, and community facilities, such as central dining rooms and activity rooms.

### 17. Nursing Home

**CLASSIFICATION**

A facility providing primarily in-patient health care, personal care, or rehabilitative services over a long period of time to persons who are chronically ill, aged, or disabled and who need ongoing health supervision but not hospitalization. Also referred to as Long-Term Care Facility or Skilled Nursing Facility.

### 18. Sober Living House

**CLASSIFICATION**

A sober living house is a peer-managed home designed to help people maintain drug and alcohol sobriety. This is achieved through required sobriety, recovery group attendance, and household participation. Those who live in these houses rent rooms indefinitely and live a life in accordance with their responsibilities with a limit of 10 persons to a residence.

## Accessory or Temporary Uses

### Accessory Uses

### 19. Accessory Dwelling

**CLASSIFICATION**

A self-contained living quarter, including an independent kitchen facility, that is attached or detached to a single-family home located on the same lot.

**STANDARDS**

1. No more than one (1) Accessory Dwelling Unit shall be permitted on a lot.

2. No more than one (1) family unit shall occupy an Accessory Dwelling Unit at a time.

3. Accessory Dwelling Units must meet the setbacks established for Accessory Structures in **Sec. 36-4.B.2. Accessory Structures**.

4. An Accessory Dwelling Unit shall be limited in size to not more than 50% of the total floor area of the principal dwelling's living space.

5. Accessory Dwelling Units may be rented or occupied by a guest.

6. Accessory Dwelling Units may have a separate utility meter from the principal dwelling.

7. Accessory Dwelling Units shall have an assigned address.

### 20. Accessory Structures

**CLASSIFICATION**

A subordinate structure, the use of which is incidental to and customarily found in connection with a principal dwelling on the same property.

**STANDARDS**

See **Sec. 36-4.B.2. Accessory Structures**.

### 21. Animal Raising (Accessory)

**CLASSIFICATION**

The raising and breeding of animals or production of animal products, which is an accessory to a permitted principal use. Typical uses include grazing, ranching, dairy farming, poultry farming, and beekeeping in accordance with Chapter 7 of the Las Cruces Municipal Code. This use does not include slaughterhouses, feedlot operations, and any use included in #130 Animal Raising (Commercial Feed Lots).

**STANDARDS**

See Chapter 7 of the Las Cruces Municipal Code for additional requirements.

### 22. Drive-Thru

**CLASSIFICATION**

A window or similar access point added to a business (including a restaurant, bank, or financial institution, pharmacy, etc.) in which patrons receive service while remaining in their vehicles.

**STANDARDS**

See **Sec. 38-2.N.7. Loading and Stacking** for applicable requirements.

### 23. Home Occupation

**CLASSIFICATION**

An occupation carried on in the home by a member of the household, without the use of a sign to advertise the occupation, without structural alterations to the building or any of its rooms, that does not involve open storage, and that does not create a nuisance to abutting residential property such as emission of odor, increased traffic or generation of light and smoke.

**STANDARDS**

1. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such Home Occupation. No sign, advertisement or display may be used to indicate the presence of a Home Occupation in the structure.

2. The Home Occupation shall be clearly incidental and subordinate to the home's use for residential purposes. Not more than 30 percent of the square footage of the dwelling area shall be used in the conduct of the Home Occupation(s).

3. No equipment shall be used that creates offensive noises, vibration, sound, smoke, dust, odors, heat, glare, environmental concerns, x-rays, or electrical disturbances to radio or television instruments.

4. Delivery of materials to and from the premises shall not involve the use of vehicles over two-ton capacity, except parcel post, United Parcel Service, or similar delivery trucks.

5. No traffic shall be generated by a Home Occupation in greater volume than normally expected in a residential neighborhood, and any need for parking must be accommodated within the required off-street parking for the residence or along the street frontage for the lot.

6. No Outside Storage is permitted in conjunction with a Home Occupation.

7. Auto and vehicle repair are not permitted for home occupations due to oil, grease, and material discharge.

8. There shall be no change in the outside appearance of the building or premises. There shall be no outside storage of business-related equipment or supplies except one company owned vehicle, that does not exceed (1) one ton. Only this vehicle shall be permitted to have signs and advertising in accordance with the vehicle sign provisions within the sign code.

### 24. Outdoor Display (Permanent)

**CLASSIFICATION**

The permanent display of merchandise offered for sale external to a retail building which can be viewed and/or accessed by the customer for purchase.

### 25. Outdoor Storage

**CLASSIFICATION**

The keeping of materials, equipment, supplies, and merchandise external to a building that are not for sale and are not intended to be viewed by customers for purchase.

**STANDARDS**

See **Sec. 38-8. Fencing, Screening, and Buffering** for applicable screening requirements.

### 26. Pools and Recreational Courts

**CLASSIFICATION**

An area for active play and recreation that includes but is not limited to, open space, sports courts, play equipment, trails, restrooms, indoor or outdoor pools, and maintenance structures. The use may be either publicly or privately maintained.

**Standards**

See **Sec. 38-8.F.1. Swimming Pools, Whirlpools, Hot Tubs, and Other Similar Structures**.

### 27. Solar Energy System (Accessory)

**CLASSIFICATION**

A device accessory to a primary structure or use that relies upon the sun's rays as an energy source and is capable of collecting, distributing, and storing the sun's radiant energy.

**STANDARDS**

Solar energy system devices must be designed and located to avoid glare or reflection onto adjacent properties and adjacent roadways and shall not interfere with traffic or create a safety hazard, and must meet the following applicable requirements.

1. Ground-Mounted Solar Energy Systems

   a. Ground-mounted solar energy systems must meet applicable setbacks for the zoning district and shall be located in the rear yard.

   b. The surface area shall not exceed half the building footprint of the principal structure.

2. Roof-Mounted Solar Energy Systems

   a. Roof-mounted systems shall be mounted as flush as possible to the roof and not more than 12 inches above the existing roof surface.

   b. Roof-mounted systems must also be in compliance with the maximum building height for the applicable zoning district.

   c. Roof-mounted systems that are visible from the nearest edge of the street frontage Right-of-Way shall not have a highest finished pitch more than five percent steeper than the roof pitch on which the system is mounted, and shall be no higher than 16 inches above the roof.

### 28. Walk-Up Window

**CLASSIFICATION**

A window for service to patrons not in a vehicle (i.e., pedestrians or cyclists), typically in conjunction with a restaurant or other retail use.

**STANDARDS**

A walk-up window must face a sidewalk or other safe queuing area for pedestrians. A walk-up window queuing area shall not be located in a drive aisle.

### 29. Wind Energy System (Accessory)

**CLASSIFICATION**

A device accessory to a primary structure or use that relies upon wind as an energy source and is capable of collecting, distributing, and storing wind energy.

**STANDARDS**

1. General Standards

   a. Wind Energy Systems are permitted only in the rear yard.

b. The minimum distance between the ground and any part of a rotor blade must be at least twenty (20) feet.

c. Wind Energy Systems shall not be illuminated, nor may they bear any signs or advertising.

d. Wind Energy Systems must have automatic braking, governing, or feathering system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the support structure, rotor blades, and turbine components.

e. All wiring serving Wind Energy Systems must be underground.

f. Noise produced by Wind Energy Systems may not exceed 55 dBA measured at the property line.

h. Wind Energy Systems must not cause any interference with normal radio and television reception in the surrounding area, with any public safety agency or organization (including but not limited to police, fire, and ambulance) radio transmissions, or with any microwave communications link. The owner shall bear the cost to conduct a study to determine interference, and of immediately eliminating any such interference should any occur, or must immediately shut down the system or parts of the system causing the interference.

i. A finish (paint/surface) must be provided for the Wind Energy System that reduces the visibility of the facility, including the rotors. In most circumstances this condition may be satisfied by painting the support structure and rotors with flat light haze gray paint. If the support structure is unpainted it must be of a single color throughout its height. The owner must maintain the finish, painted or unpainted, so that no discoloration is allowed to occur.

j. The diameter of the area swept by the rotors may not exceed 12 feet.

2. Freestanding Systems – Additional Standards

a. Wind Energy Systems may be mounted on a tower detached from other structures on the lot.

b. The minimum setback from any property line, overhead utility line, or public right-of-way shall be a distance equal to the vertical distance from the ground to the tip of a wind generator blade when the tip is at its highest point unless the affected utility, property owner, or governmental entity grants written permission for a lesser setback. In addition to the system's structures, guy wires associated with towers shall meet applicable setbacks for the zoning district.

c. Freestanding systems measured from the top blade may not exceed 45 feet in height.

d. Support structures for freestanding systems must be unclimbable from the ground to a height of at least 15 feet.

e. A maximum of one freestanding Wind Energy System shall be allowed per lot.

3. Roof-Mounted Systems – Additional Standards

a. Wind Energy Systems may be mounted on the roof of a structure as an appurtenance.

b. Roof-mounted systems measured from the top blade may not be more than five feet over the maximum allowed height for the structure.

c. A maximum of one roof-mounted Wind Energy System shall be allowed per lot.

d. Before any roof-mounted system is mounted, the property owner must submit a report prepared by a licensed professional engineer attesting to the fact that the structure to which the system will be mounted is or will be sufficiently strong to support the system and to withstand the wind, vibratory, and other loads to which it would be subjected as a result of mounting the system on it. This report is subject to approval by the City Engineer prior to the mounting of the system.

## Temporary Uses

### 30. Concrete Batch Plant (Temporary)

**CLASSIFICATION**

A temporary manufacturing facility for the production of concrete or asphalt during construction of a project, and to be removed when the project is completed.

### 31. Construction Building (Temporary)

**CLASSIFICATION**

A temporary building or structure used by a land developer to facilitate on-site operations and coordination of active construction.

**STANDARDS**

Such building(s), facilities, or other arrangement approved by the Community Development Director shall be removed upon completion of construction. Construction buildings or any other facilities shall be maintained in a neat and orderly fashion.

### 32. Construction Yard (Temporary)

**CLASSIFICATION**

A temporary outdoor storage facility used by a land developer or homebuilder to house materials and equipment for active on-site construction, including all necessary fencing, lighting, and surveillance measures.

**STANDARDS**

Such yard shall be removed upon completion of construction. Construction yards or any other facilities shall be maintained in a neat and orderly fashion. Open yards shall be enclosed by a fence at least five feet in height and require written approval by the Community Development Director.

### 33. Outdoor Display (Temporary)

**CLASSIFICATION**

The temporary display of merchandise offered for sale external to a retail building in conjunction with seasonal or short-term events, which can be viewed and/or accessed by the customer for purchase. Display is considered "temporary" when brought inside nightly (e.g., sidewalk sale).

**STANDARDS**

These types of sales and displays shall be permitted for no more than 21 calendar days at a single location one time in a calendar year.

### 34. Real Estate Office (Temporary)

**CLASSIFICATION**

A model home or temporary structure used by a home builder to facilitate on-site sales and display within a subdivision where there are new homes available for purchase already built or to be built on lots located therein.

**STANDARDS**

A Real Estate Office (Temporary) is allowed in conjunction with a developing subdivision for a period of up to three years or when 85 percent of lots are sold, whichever occurs first. The Community Development Director may approve extensions up to two years. For model homes, a temporary Certificate of Occupancy will be issued until the above period ends, at which time a permanent Certificate of Occupancy is required.

### 35. Seasonal/Temporary Sales or Use

**CLASSIFICATION**

A business, sale, display, or event which is conducted for a limited time or on a cyclical annual or monthly basis. Uses may be conducted in tents, temporary or permanent buildings, vehicles, outside, or combination thereof.

**STANDARDS**

1. A temporary use permit from the City is required. The application submittal shall include the applicant's contact information, a description of the temporary use, a Site Plan (see **Sec. 36-5.B. Site Plans**), the date(s) of operation, and the property owners' written consent.

2. The temporary use may occupy up to 25 percent of the parking area if there are 20 spaces or less; 15 percent between 21 and 50 spaces; or 10 percent if there are more than 50 spaces. The temporary use shall not obstruct accessible parking spaces. There must still be adequate room for traffic circulation around the temporary use.

3. All uses proposed to be located in City parks shall comply with Chapter 20 Parks and Recreation of the Municipal Code.

4. Additional Restrictions:

a. Christmas Trees: Sales shall not occur before November 15 or after December 31.

b. Fireworks: Sales shall not occur before June 20 or after July 6. Sale of fireworks is also permitted three calendar days preceding and including New Year's Day, Chinese New Year and Cinco de Mayo of each year.

c. Other Temporary Stands: These uses are permitted for no more than three months for the sale of seasonal merchandise and for no more than 30 calendar days for nonseasonal merchandise.

d. Carnival or amusement park: Permitted for no more than 14 calendar days at a single location one time in a calendar year (not including the time required to set up and take down the structures associated with the use). Additional time requires a Special Use Permit.

e. Yard, garage or rummage sales, fund raising or celebration activities for nonprofit organization: These types of uses shall be conducted for no more than four calendar days, three times at one location in a calendar year. No permits are required for these uses when conducted from an individual's dwelling or an institution. If conducted from a business or other property not used mainly for residential or institutional purposes, all requirements for temporary uses must be met.

**Public and Institutional Uses**

## Child Care

### 36. Child Care Center

**CLASSIFICATION**

A facility licensed by the State that provides care, services, and supervision for less than 24 hours a day to children, and is located in a nonresidential setting. (N.M. Code R. § 8.16.2.7(I))

### 37. Child Care Home (≤6)

**CLASSIFICATION**

A private dwelling licensed by the State that provides care, services and supervision for a period of less than 24 hours of any day for no more than 6 children, where the licensee resides in the home and serves as the primary educator. (N.M. Code R. § 8.16.2.7(AA))

**STANDARDS**

Licensee must reside in the home and serve as the primary educator. Subject to Home Occupation standards (see #23), except maximum number of patrons.

### 38. Group Child Care Home (7-12)

**CLASSIFICATION**

A private residence licensed by the State that provides care, services, and supervision for 7 but not more than 12 children, where the licensee resides in the home and serves as the primary educator. (N.M. Code R. § 8.16.2.7(CC))

**STANDARDS**

Licensee must reside in the home and serve as the primary educator. Subject to Home Occupation standards (see #23), except maximum number of patrons.

## Schools

### 39. School (K-8)

**CLASSIFICATION**

A public or private institution approved by the State for the teaching of children between the grades of kindergarten and 8$^{th}$ grade, often referred to as primary, elementary, and/or middle school.

**STANDARDS**

All sites shall have a minimum of one acre. See **Sec. 38-2.N.7. Loading and Stacking** for applicable requirements.

### 40. School (9-12)

**CLASSIFICATION**

A public or private institution approved by the State for the teaching of children between the grades of 9$^{th}$ and 12$^{th}$ grade, often referred to as secondary and/or high school.

**STANDARDS**

This use shall be located on a collector or higher designated roadway. All sites shall have a minimum of one acre. See **Sec. 38-2.N.7. Loading and Stacking** for applicable requirements.

### 41. School (College or University)

**CLASSIFICATION**

An institution recognized by the State, other than a technical or trade school, that provides full-time or part-time secondary education beyond grades 9-12, and awards associate, baccalaureate or higher degrees of education.

**STANDARDS**

This use shall be located on a Collector or higher designated roadway. All sites shall have a minimum of one half-acre.

### 42. School (Commercial, Trade, or Technical)

**CLASSIFICATION**

An institution for the teaching and on-site instruction of industrial, clerical, managerial, or artistic skills.

Trade or Technical School requires an SUP in NH-1 zoning district.

## Public/Semi-Public

### 43. Cemetery or Columbarium

**CLASSIFICATION**

A site, building, or structure used for the burial of the human dead, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such site, building, or structure.

**STANDARDS**

Any cemetery site shall contain at least five acres and shall be located on a major local or higher designated roadway. A columbarium shall be located on a major local or higher designated roadway with the lot size meeting the zoning district minimum lot size.

### 44. City Facility or Building

**CLASSIFICATION**

A building or structure owned by the municipality and used for the administration and operation of a City Department.

### 45. Community Building or Banquet Center

**CLASSIFICATION**

A building or complex of buildings that house cultural, recreational, athletic, food service and/or entertainment facilities owned and/or operated by a governmental agency or private nonprofit agency.

### 46. Community Garden

**CLASSIFICATION**

A facility operated by a public or semi-public entity for the cultivation of fruits, flowers, vegetables, or other plants for consumption or enjoyment by more than one person or family.

### 47. Convention Center or Exhibition Hall

**CLASSIFICATION**

A building or complex of buildings that are designed for the gathering of individuals and display of topic-specific goods, services, or information.

### 48. Correctional Facility

**CLASSIFICATION**

Publicly or privately operated facility housing persons awaiting trial or persons serving a sentence after being found guilty of a criminal offense.

### 49. Landfill

**CLASSIFICATION**

A lot or part thereof used for the disposal of garbage, sewage, trash, refuse, junk, discarded machinery, or nontoxic waste material by abandonment, dumping, burial, burning, or other means.

### 50. Library or Museum

**CLASSIFICATION**

A building or public facility serving as a repository for a collection of natural, scientific, artistic, or literary objects of interest, and designed to be used for viewing, with or without an admission charge. Uses may include the sale of goods and novelties, and the ability to check out materials including books, videos, and other literature.

### 51. Place of Worship

**CLASSIFICATION**

A building, structure, or site used for nonprofit purposes by a recognized and legally established group primarily for religious worship and related religious services, including an area for assembly, housing of clergy, and related incidental activities.

### 52. Public Park

**CLASSIFICATION**

An area developed for active play and recreation that includes, but is not limited to, open space, sports courts, play equipment, trails, restrooms, and maintenance structures. The park may be either publicly or privately maintained.

**STANDARDS**

All uses proposed to be located in City parks shall comply with Chapter 20 of the Municipal Code. Recreational events and activities may be permitted subject to Community Development Director approval.

Neighborhood Parks: Generally, these parks will be up to ten acres in size.

Community Parks: Generally, these parks will be up to 100 acres, but not less than ten acres in size, and should be located on a minor arterial or higher designated roadway.

Regional Parks: Generally, these parks will be more than 100 acres in size and should be located on a Principal Arterial.

### 53. Public Utilities (Major)

**CLASSIFICATION**

A building, complex of buildings, or facility owned by public or private entity used for the supply and distribution of utilities to the public including water, sanitary sewer, storm drainage, electricity, and gas services.

**STANDARDS**

The site shall be developed and maintained in conformance with the general character and appearance of the district, and such development shall include landscaping and suitable opaque screening in the form of a solid wall, fence or compact shrubbery around the entire perimeter of the lot or tract, or around the installation itself in cases such as transformers. A wall or fence may be up to ten feet high.

Wastewater treatment plants or transfer stations: Use shall be located at least 300 feet from any residential zoning district boundary.

### 54. Public Utilities (Minor)

**CLASSIFICATION**

The installation, alteration, or maintenance by a service provider or government agency of above- or below-ground utility structures, including gas, electrical, steam, or water transmission lines, or their distribution systems, including all necessary poles, wires, mains, drains, sewers, pipes, conduits, hydrants, and other similar equipment associated, but not including buildings. Such use is reasonably necessary for the provision of adequate service by such entity for the public.

**STANDARDS**

The site shall be developed and maintained in conformance with the general character and appearance of the district, and such development shall include landscaping and suitable opaque screening in the form of a solid wall, fence or compact shrubbery around the entire perimeter of the lot or tract, or around the installation itself in cases such as transformers. A wall or fence may be up to ten feet high.

### 55. Recycling Drop-Off Point

**CLASSIFICATION**

A facility for the collection of materials for recycling, excluding vehicles or vehicle parts.

### 56. Waste or Recycling Processing Facility

**CLASSIFICATION**

A building or structure used for the collection and processing of waste material, both recyclable or non-recyclable, including the preparation of materials for efficient shipment, compacting, flattening, grinding, crushing, or similar process.

## Retail, Service, and Office Uses

### Professional Office

### 57. Professional Office (Local)

**CLASSIFICATION**

An establishment for the conduct of a variety of businesses in an office setting completely enclosed within a structure less than or equal to 20,000 square feet in area.

NH-1 zoning district is limited to structures less than 3000 square feet.

### 58. Professional Office (Regional)

**CLASSIFICATION**

An establishment for the conduct of a variety of businesses in an office setting completely enclosed within a structure greater than 20,000 square feet in area.

### Medical

### 59. Emergency Room (Standalone)

**CLASSIFICATION**

A standalone facility that provides immediate or emergent medical treatment as part of a hospital setting. Patients are treated on a walk-in basis and via emergency transport.

**STANDARDS**

This use shall be located on a Collector or higher designated roadway.

### 60. Hospital

**CLASSIFICATION**

An institution used or designed for the housing or treatment of sick or injured patients where they are given medical or surgical treatment intended to restore them to health, and that is licensed by the State. Includes customarily incidental uses, such as a gift shop or cafeteria.

**STANDARDS**

This use shall be located on a Minor Arterial or higher designated roadway.

### 61. Medical Clinic or Office

**CLASSIFICATION**

An institution for the examination and treatment of in-patients and out-patients by an individual or group of doctors, including dentists, or other licensed members of a human healthcare profession.

### 62. Medical or Research Laboratory

**CLASSIFICATION**

An establishment engaged in research concerning biology, microbiology, biochemistry, other life sciences, and general healthcare such as agricultural research, food research, pharmaceutical research, oceanographers, biotechnical research, and other related life science and healthcare research.

### 63. Urgent Care

**CLASSIFICATION**

A stand-alone facility, outside of a hospital setting, that provides immediate or emergent medical treatment on a strictly outpatient basis. Patients are generally treated on a walk-in basis and services are not intended for long-term or overnight care.

## Lodging

### 64. Bed and Breakfast

**CLASSIFICATION**

A commercial establishment within a detached dwelling unit containing dining and bathroom facilities with sleeping rooms for short-term guest lodging. The owner/operator shall live in the dwelling, in another dwelling on the property, or on property adjacent to the establishment.

**STANDARDS**

In the Rural Character Area, the number of rooms is limited to eight; in all other areas, the number of rooms is limited to 15. Overall design of buildings and/or site design shall be consistent with the residential neighborhood, architecturally compatible with existing buildings or be architecturally compatible with building types normally found in the zoning district in which it is located.

### 65. Campground

**CLASSIFICATION**

A lot or parcel used for transient occupancy by lodging in tents, camp trailers, travel trailers, motor homes, or similar movable and temporary sleeping quarters, excluding mobile homes.

### 66. Hotel or Motel

**CLASSIFICATION**

A commercial establishment providing sleeping accommodations and customary lodging services, including maid service, the furnishing and upkeep of furniture and linens, and telephone and desk service, in which rooms are accessed by a hallway internal to the building or externally via an exposed hallway, balcony, parking lot or sidewalk.

### 67. Recreational Vehicle Park

**CLASSIFICATION**

A lot or parcel used for the accommodation of recreational vehicles for recreational use or transient lodging, including associated uses such as laundry, restroom, and shower facilities.

**STANDARDS**

1. Recreational vehicle (RVs), when used for temporary or permanent living purposes, shall be located solely in a recreational vehicle park (RVP) except as approved by the Community Development Director as follows:

a. Arrangements for temporary construction yards,

b. One RV temporarily located on a single-family lot, or

c. Other temporary arrangement (e.g., emergency shelter).

2. Permitted uses in an RVP.

a. Recreational vehicle parking.

b. One manufactured or site-built home for the RVP caretaker.

c. Accessory structures, swimming pools, home occupations, and recreation areas and buildings.

d. There shall be a community building or buildings that provide for the recreational and service needs of occupants of the RVP. It may include management offices, dumping stations, restrooms, showers, laundry/dry cleaning facilities and other uses and structures customarily incidental to operation of an RVP. The area of the community building or buildings may not be calculated as part of the required recreational area.

e. Convenience establishments of a commercial nature, including laundries, stores, beauty shops, and barber shops, may be permitted in RVP subject to the following restrictions:

i) Such establishments and their parking area shall not occupy more than seven percent of the area of the park;

ii) Shall be discontinued if the RVP is discontinued.

iii) Shall be located, designed, and intended to serve frequent trade or service needs of persons residing in the park only; and

iv) Shall present no visible evidence of their commercial character outside the park.

2. The minimum RVP size is two acres and each RV space shall be a minimum of 1,200 square feet not including sidewalks or streets. The density of spaces in any RVP shall not exceed 20 spaces per acre.

3. No structure within an RVP shall exceed 35 feet in height.

4. Development Standards

a. Other Applicable Regulations. All City requirements must be met unless specifically noted herein, including but not limited to Landscaping, Sidewalks, Signs, Streetlighting, and Off-Street Parking. All federal, state, and local accessibility requirements shall be met.

b. Screening. All RVPs shall have opaque perimeter walls and/or fences at least five feet in height installed prior to the issuance of a certificate of occupancy for the RVP or each phase of the RVP. Each RV space shall have a wall and/or fence defining the RVS.

c. Utilities. Utility placement shall be approved by the Utilities Department Director. Water, sewer, electricity, telephone, and other necessary utilities shall be available at the RVP. A means for emptying sewage holding tanks shall be provided and approved by City and the State Environment Department.

d. Streets.

i) RVPs shall have direct motor vehicle access to or be located on a collector or higher designated roadway. No entrance to or exit from an RVP shall be permitted through a residential zoning district.

ii) Private access ways and individual space arrangements shall be designed to accommodate the frequent movement of recreational vehicles.

There shall be at least three parking spaces designated in the RVP for each two RV spaces. Parking may be provided in common parking areas, on individual RV spaces, and/or on RVP streets. All parking (including RV spaces) must be paved to meet City standards.

iv) All streets within an RVP shall meet the following minimum widths:

**Figure 36-3-4. Required Pavement Width by Roadway Type**

| Parking Permitted* | Local, one way (Serving fewer than 20 RVs) | Local, two way (Serving 20 to 50 RVs) | Collector (Serving more than 50 RVs) |
|---|---|---|---|
| No | 14’ | 18’ | 20’ |
| One side | 18’ | 27’ | 29’ |
| Both sides | 27’ | 36’ | 38’ |

* Parallel parking lanes are to be striped at nine feet in width.

e. Sidewalks. There shall be a network of sidewalks at least five feet in width connecting RV spaces with each other and with RVP facilities.

f. Recreation. There shall be an active, usable recreational area(s) for tenants, comprising at least five percent of the gross site area, which shall not include required setback areas or similar areas not usable for recreational activities.

g. Refuse. Adequate refuse collection facilities shall be provided, constructed, and maintained in accordance with all municipal health regulations, and shall be screened from view and designed to bar animals from access to refuse. Refuse shall be removed from collection sites at least once a week.

## Recreational and Entertainment

### 68. Botanical Garden

**CLASSIFICATION**

A public or private facility for the demonstration and observation of the cultivation of flowers, fruits, vegetables, or ornamental plants.

### 69. Golf Course

**CLASSIFICATION**

A public or private amusement enterprise including nine or more holes of golfing, which may include an associated clubhouse. This use does not include mini-golf courses and driving ranges.

### 70. Indoor Entertainment

**CLASSIFICATION**

An amusement enterprise offering entertainment or games of skill to the general public for a fee or charge, wherein all portions of the activity takes place indoors, including, but not limited to, a bowling alley, billiard/pool hall, firing /archery range, skating rink, racquetball/handball club, batting cages, indoor tennis courts/club, indoor swimming pool, video game arcade, and indoor trampoline park.

### 71. Outdoor Entertainment

**CLASSIFICATION**

An amusement enterprise offering entertainment or games of skill to the general public for a fee or charge, wherein any portion of the activity takes place outdoors including, but not limited to, golf driving range, miniature golf course, temporary or permanent amusement park, firing/archery range, batting cages, automobile racetrack, go-cart tracks, swimming pool, sport arena/complex or track, or zoo.

**STANDARDS**

Parking and structures shall be located a minimum of 300 feet from any NH-1 zoning district boundary. Swimming pools must meet requirements outlined in Chapter 30 Building Code and in **Sec. 38-8. Fencing, Screening, and Buffering**.

## Retail Shops and Services

### 72. Adult Business

**CLASSIFICATION**

A sexually oriented business, including, but not limited to, an adult arcade; adult book or video store; adult cabaret; adult dancing establishment; adult novelty store; and adult theater.

**STANDARDS**

1. Such uses shall be located at a minimum of 1,000 feet from a property line of a:

   a. School;

   b. Church;

   c. Nursery/day care; or

   d. Public park or recreational facility.

2. These uses shall be permitted, provided such uses are located at a minimum of 500 feet from the property line of a liquor establishment. The distance shall be measured from the Adult Bookstore/Video Store or the Adult Amusement Establishment to the property line of the liquor establishment; and

3. The operator of an Adult Bookstore/Video Store or Adult Amusement Establishment shall affix a sign to the exterior wall nearest the primary entrance to the structure in which such enterprise is located. This sign does not count toward the requirements included in **Sec. 38-10. Signs**. Such signs shall be 36" × 18", shall have red lettering (letters shall be 2" in width and 3" in height) on a white background and it shall state as follows:

   WARNING: ADULT BOOKSTORE/VIDEO STORE

THE BUSINESS WITHIN IS SEXUALLY ORIENTED

or

WARNING: ADULT AMUSEMENT ESTABLISHMENT

THE BUSINESS WITHIN IS SEXUALLY ORIENTED.

4. Distance measurements shall include streets, alleys, channels, canals, other public rights-of-way and railroad right-of-way.

### 73. Art Studio or Instruction

**CLASSIFICATION**

An establishment that engages in the creation of artistic effects, or the instruction, for a fee, of artistic skills and lessons including, but not limited to, painting, floral design, dance, photography, glass blowing, illustration, and woodworking.

### 74. Bank or Financial Institution

**CLASSIFICATION**

An establishment for the deposit, custody, loan, exchange or issue of money, the extension of credit, and facilitating the transmission of funds excluding pawnshops, check cashing businesses, payday advance/loan businesses, car title loan businesses and bail bonds. A drive-thru may be permitted only as an accessory use (see #22 Drive-Thru).

### 75. Flea Market

**CLASSIFICATION**

An open-air market in which spaces are rented or leased for the purpose of selling second-hand articles and home crafts.

### 76. Gas Station

**CLASSIFICATION**

Any facility, equipment, or fixture, including a canopy, used for retail dispensing of motor vehicle fuels primarily to passenger vehicles.

**STANDARDS**

Where permitted within the NH districts, this use shall be located on a Collector or higher designated roadway.

See **Sec. 38-2.N.6.a)ii) Gas Pump Islands** for additional applicable requirements.

### 77. Grocery (Local)

**CLASSIFICATION**

A retail establishment primarily selling prepackaged and perishable food as well as other convenience and household goods that is 30,000 square feet or less.

Stores shall not exceed 3,000 sq ft in the NH-1 District to ensure compatibility with residential development.

### 78. Grocery (Regional)

**CLASSIFICATION**

A retail establishment primarily selling prepackaged and perishable food as well as other convenience and household goods that is greater than 30,000 square feet.

**STANDARDS**

Maximum Vehicular Parking Requirements:

1. For development that requires up to 20 spaces or less, new development shall not provide more than 50% more than the minimum number of off-street vehicular parking spaces in **Figure 36-3-2. Permitted Use Chart** based on the proposed uses(s).

2. For development that requires more than 20 spaces, new development shall not provide more than 20% percent more than the minimum number of off-street vehicular parking spaces in **Figure 36-3-2. Permitted Use Chart** based on the proposed uses(s).

### 79. Liquor or Package Store

**CLASSIFICATION**

A retail establishment primarily selling liquor, beer, wine, and/or other alcoholic beverages for off-site consumption.

**STANDARDS**

Alcohol sales for off-premises consumption is allowed, provided that the establishment complies with all New Mexico State law requirements, including but not limited to any required spacing from other uses or facilities.

### 80. Payday Loans, Check Cashing, or Bail Bonds

**CLASSIFICATION**

An establishment engaged in providing short-term loans, payouts of checks, or lump sums of money exclusive of a bank or financial institution.

### 81. Pawn Shop

**CLASSIFICATION**

An establishment that engages in the business of loaning money on the security of pledges, deposits, or conditional sales of personal property, or the purchase or sale of personal property.

### 82. Personal Services

**CLASSIFICATION**

An establishment primarily engaged in the provision of frequent or recurrent needed services of a personal nature. Uses include but are not limited to, beauty and barber shops, laundry and drycleaning pick-up/drop-off establishments, permanent cosmetics, and incidental retail sales of products related to the provided services.

### 83. Retail Store (Local)

**CLASSIFICATION**

A commercial establishment no greater than 25,000 square feet that provides goods and/or services directly to a consumer, where such goods are available for immediate purchase and removal from the premises by the purchaser. Common uses and stores include but are not limited to, specialty shops, pharmacies, new and packaged automobile parts, convenience stores, hardware supply, upholstery shops, sports equipment sales, and clothing sales.

**STANDARDS**

Stores shall not exceed 3,000 sq ft in the NH-1 District to ensure compatibility with residential development.

### 84. Retail Store (Regional)

**CLASSIFICATION**

A commercial establishment greater than 25,000 square feet that provides goods and/or services directly to a consumer, where such goods are available for immediate purchase and removal from the premises by the purchaser. Common uses and stores include but are not limited to, pharmacies, new and packaged automobile parts, convenience stores, hardware supply, upholstery shops, sports equipment sales, and clothing sales.

**STANDARDS**

Maximum Vehicular Parking Requirements:

1. For development that requires up to 20 spaces or less, new development shall not provide more than 50% more than the minimum number of off-street vehicular parking spaces in **Figure 36-3-2. Permitted Use Chart** based on the proposed uses(s).

2. For development that requires more than 20 spaces, new development shall not provide more than 20% percent more than the minimum number of off-street vehicular parking spaces in **Figure 36-3-2. Permitted Use Chart** based on the proposed uses(s).

### 85. Retail Store (Sundry)

**CLASSIFICATION**

A commercial establishment that engages in the sale of various miscellaneous items that are usually of small value and insignificant enough to be mentioned individually including, but not limited to dry goods, toiletries, household supplies, and perishable and nonperishable foods.

**STANDARDS**

A minimum of 10 percent of the floor area of the Retail Store (Sundry) must be dedicated to fresh produce and designated as such within the Certificate of Occupancy.

Stores shall not exceed 3,000 sq ft in the NH-1 District to ensure compatibility with residential development.

### 86. Shopping Center

**CLASSIFICATION**

One or more connected buildings or structures used for commercial entities which are planned, constructed, developed, owned or managed independently or as a total entity and share access, parking, drainage, landscaping, and signage.

**STANDARDS**

Maximum Vehicular Parking Requirements:

1. For development that requires up to 20 spaces or less, new development shall not provide more than 50% more than the minimum number of off-street vehicular parking spaces in **Figure 36-3-2. Permitted Use Chart** based on the proposed uses(s).

2. For development that requires more than 20 spaces, new development shall not provide more than 20% percent more than the minimum number of off-street vehicular parking spaces in **Figure 36-3-2. Permitted Use Chart** based on the proposed uses(s).

| Food and Beverage |
|---|

### 87. Bar

**CLASSIFICATION**

An establishment that is primarily engaged in the sale of alcoholic beverages to be consumed on the premises including, but not limited to, taverns, night clubs, private clubs, and similar facilities.

**STANDARDS**

Alcohol sales for on-premises consumption is allowed, provided that the establishment complies with all New Mexico State law requirements, including but not limited to any required spacing from other uses or facilities.

### 88. Cafe

**CLASSIFICATION**

A small-scale food and beverage establishment that provides a casual dining experience. The primary focus of a Cafe is to serve a variety of hot and cold beverages along with light meals and snacks such as pastries, sandwiches, and salads. Cafes often include limited retail sales.

**STANDARDS**

In the NH-1 district, Cafes shall not exceed 3,000 square feet in area and Drive-Thrus are not permitted.

### 89. Food Truck Park

**CLASSIFICATION**

A lot or parcel used for the temporary parking of vehicle mounted food service establishments designed to be readily movable, in which food and beverages are sold for on- or off-site consumption, and may also include other mobile vendors offering retail goods and services.

**STANDARDS**

1. Food truck parks are subject to all regulations and required certifications from the New Mexico Health Department.

2. Hours of operation shall be limited to 8 a.m. to 9 p.m.;

3. Signage for the park is allowed in accordance with **Sec. 38-10. Signs**. Within the park, signs are allowed on the vehicle itself and each truck is permitted one Sidewalk Sign;

4. A drive-thru is not permitted in conjunction with the food truck park;

5. Food truck vendors shall not operate in required parking spaces, driveways, or fire lanes; and

6. A waste receptacle is required for every food truck vending unit and waste shall be removed daily.

### 90. Private Club or Lodge

**CLASSIFICATION**

An organization operated solely for recreational, fraternal, social, patriotic, political, benevolent or athletic purposes, but not for pecuniary gain, and that only sells alcoholic beverages incidental to its operation.

### 91. Restaurant

**CLASSIFICATION**

An establishment that prepares and sells food and beverages for immediate or off-site consumption, in which customers order at a counter or in similar fashion prior to sitting within the building or on the premises.

### 92. Tap Room or Tasting Room

**CLASSIFICATION**

An establishment associated with a local brewery, winery, or distillery operating under an approved Small Brewer's License as governed by Section 60-6A-26.1 NMSA 1978, an approved Winegrower's License as governed by Section 60-6A-11 NMSA 1978, or an approved Craft Distiller's License as governed by Section 60-6A-6.1 NMSA 1978 where beer, wine, or spirits are available for consumption on-site.

Any production of alcohol as regulated by State law under one of these licenses is considered Artisan Manufacturing (see #122).

Such use may or may not include food sales.

**STANDARDS**

Alcohol sales for on- or off-premises consumption is allowed, provided that the establishment complies with all New Mexico State law requirements, including but not limited to any required spacing from other uses or facilities.

## Commercial, Auto, and Industrial Uses

### Commercial

**93. Catering or Commercial Off-Site Kitchen**

**CLASSIFICATION**

An establishment engaged in cooking, preparing, and delivering food or beverages for off-site consumption.

**94. Contractors Yard or Building Material Sales**

**CLASSIFICATION**

An establishment or structure used for the repair, maintenance, or storage of a contractor's vehicles and equipment, or sales of materials used in construction including, but not limited to, lumber, hardwood, stone, or brick.

**STANDARDS**

Gas tanks shall be permitted only when meeting Fire Code requirements as adopted by the City, when receiving approval from the Fire Department, or when receiving approval from the State of New Mexico LP Gas Bureau. Landscaping and suitable opaque screening in the form of a solid wall, fence or compact shrubbery is required to screen the tank from view from a public right-of-way.

**95. Crematorium**

**CLASSIFICATION**

A place used for the preparation and incineration of the human or animal deceased.

**96. Dispatch Service**

**CLASSIFICATION**

A business engaged in providing off-site services, where the business' primary offices, vehicles, and equipment are located on-site with little to no walk-in traffic. Services include, but are not limited to, cleaning and maid, plumbing, pest control, and locksmithing.

**97. Dry Cleaning Plant**

**CLASSIFICATION**

An establishment used for the cleaning of clothing, linen, and other textiles through a process involving the use of solvents. For drycleaning pick-up/drop-off service, see #82 Personal Services.

**98. Equipment Rental, Sales, or Repairs**

**CLASSIFICATION**

An establishment engaged in the repair, rental, and leasing of heavy construction equipment for off-site use.

Allowed in NH-3 when located on or adjacent to a collector or higher roadway.

**99. Film Staging or Production Studios**

**CLASSIFICATION**

An establishment engaged in the staging and/or recording of live, video, or audio productions including, but not limited to, music, commercials, motion pictures, and theatre performances.

**100. Funeral Home**

**CLASSIFICATION**

An establishment used for the storage of human bodies prior to their burial or cremation, which may also be used for the preparation of the deceased for burial and the display of the deceased and ceremonies and services connected with.

**101. Industrial Printing or Distribution**

**CLASSIFICATION**

An establishment engaged in the manufacturing and distribution of media to the public including, but not limited to, newspapers, books, and/or similar media.

**102. Manufactured Housing or Building Sales**

**CLASSIFICATION**

A building, structure, or lot used for the marketing, sales, and distribution of Manufactured Homes.

**103. Postal or Printing Services**

**CLASSIFICATION**

An establishment engaged in the retail sale of stationery products, and services related to packaging, mail, and printing media for walk-in consumers.

**104. Repair Shop**

**CLASSIFICATION**

An establishment engaged in the repair and service of small products including, but not limited to, watches, clocks, jewelry, small appliances and electronics, instruments, and cameras.

**105. Self-Storage Warehouse**

**CLASSIFICATION**

A structure or building with enclosed storage space, divided into separate compartments, that is provided for use by individuals or businesses in exchange for payment or rent.

**106. Wireless Communication Facilities**

**CLASSIFICATION**

Includes antenna, towers, communication structures, and other similar vertical structures.

**STANDARDS**

See **Sec. 38-11. Wireless Communication Facilities**.

## Cannabis-Related

**107. Cannabis Dispensary**

**CLASSIFICATION**

A specialized retail store that sells cannabis and cannabis-related products for medicinal or recreational use.

**STANDARDS**

Cannabis dispensaries shall comply with all State of New Mexico regulatory and licensing requirements. Cannabis retailers shall not be located within 300 feet from a school or daycare center that was in existence at the time the cannabis establishment was licensed, excepting commercial schools and schools of higher learning serving those 18 years and older. No cannabis retailer shall be located within 300 feet of another cannabis retailer without an approved Special Use Permit. On-site consumption of cannabis is limited to indoors where licensed and in compliance with State law and access to the cannabis consumption area is restricted to persons 21 years of age and older.

**108. Cannabis Production**

**CLASSIFICATION**

The growing and harvesting of cannabis for commercial purposes that occurs entirely or primarily within an enclosed structure and/or any type of processing or manufacturing of cannabis-based products, which operation is licensed by the State.

**109. Integrated Cannabis Business**

**CLASSIFICATION**

A licensed Integrated Cannabis Business or Vertically Integrated Cannabis Establishment (VICE) as permitted and regulated by the State. Operations exceeding 10 percent of total floorspace in an Integrated Cannabis Business must be individually allowed by the Use Chart (for example, Cannabis Dispensary and Cannabis Production) and any standards for any individual uses must be followed.

**STANDARDS**

Integrated cannabis businesses shall comply with all State of New Mexico regulatory and licensing requirements. Cannabis retailers shall not be located within 300 feet from a school or daycare center that was in existence at the time the cannabis microbusiness was licensed, excepting commercial schools and schools of higher learning serving those 18 years and older. No cannabis retailer shall be located within

300 feet of another cannabis retailer without an approved Special Use Permit. On-site consumption of cannabis is limited to indoors where licensed and in compliance with State law.

## Automotive and Transportation

### 110. Auto Sales or Rental

**CLASSIFICATION**

An establishment engaged in the sale, lease, or rental of new or used automobiles such as cars, motorcycles, and light-duty trucks, including ancillary uses such as minor vehicle repair and service, sales offices, and outdoor storage of vehicles.

**STANDARDS**

See **Sec. 38-8.E.6. Auto Storage and Salvage Yards** for screening requirements.

### 111. Auto Repair and Services (Major)

**CLASSIFICATION**

An establishment engaged in the general repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers including, but not limited to, body work, framework, welding, overall painting, and tire replacement and disposal.

**STANDARDS**

See **Sec. 38-8.E.6. Auto Storage and Salvage Yards** for screening requirements.

### 112. Auto Repair and Services (Minor)

**CLASSIFICATION**

An establishment engaged in minor repairs of engines, motor vehicles, or trailers that does not require the removal of the engine head or pan, engine, transmission, or differential of a vehicle, including, but not limited to, minor repair or maintenance, oil changing, and minor interior upholstery work.

**STANDARDS**

See **Sec. 38-8.E.6. Auto Storage and Salvage Yards** for screening requirements.

### 113. Car Wash

**CLASSIFICATION**

An establishment engaged in the washing, waxing or cleaning of a standard passenger automobile, in which the owner of the vehicle washes the vehicle or waits while the facility washes the vehicle for a fee.

**STANDARDS**

Where permitted within the NH districts, this use shall be located on a Collector or higher designated roadway

### 114. Commercial Parking Lot or Garage

**CLASSIFICATION**

A lot or structure used for the parking of passenger vehicles with or without an assessed fee.

**STANDARDS**

Parking lots or garages must be within 500 feet of any office, commercial, or industrial use or zoning district. The parking area shall be suitably landscaped, paved and drained, lighted, and maintained free of debris.

See **Sec. 38-8.E. Required Screening** for screening requirements for all parking structures.

### 115. Heliport/Helistop

**CLASSIFICATION**

A designated space for the takeoff and landing of aerial vehicles, including helicopters and drones. This can range from simple, temporary setups with minimal facilities (helistops and drone launchpads) to more complex, permanent installations with extensive support services such as fueling, maintenance, and passenger terminals (heliports).

**STANDARDS**

Uses shall be in accordance with the federal Airspace Protection Regulations, including 14 CFR, Part 77.

### 116. Passenger Transportation Terminal

**CLASSIFICATION**

A building or complex of buildings, parking garages or lots, and associated structures which provide access, activities, and facilities of for the use, support, and convenience of the public traveling by, but not limited to, airplane, bus, cab, and rail.

**STANDARDS**

Airports:

1. Land uses at the Las Cruces International Airport (LCIA) property will be in accordance with current City-Federal (Federal Aviation Administration) agreements and the adopted LCIA Master Plan. Parking, drainage, landscaping and other development standards are determined by the City Council through Chapter 7.5 of the Municipal Code, as amended, and Resolution 98-371, as amended. The LCIA Master Plan substitutes for a Special Use Permit. No special use permit is required.

2. Properties within 20,000 feet of an active runway at any airport will not be allowed to conduct land uses that would violate Federal Airspace Protection Regulations, including 14 CFR (Code of Federal Regulations), Part 77.

3. All other airports shall comply with 14 CFR, Part 77. Development standards, e.g., parking requirements, required runway paving standards, land uses will be determined as part of the Special Use Permit (SUP) review process. A Noise Exposure Study shall be submitted with the SUP application.

### 117. Salvage or Wrecking Yard

**CLASSIFICATION**

A lot or portion thereof used for the dismantling, wrecking, storage, sale, or dumping of junk motor vehicles or trailers for their parts.

**STANDARDS**

See **Sec. 38-8.E.6. Auto Storage and Salvage Yards** for screening requirements.

### 118. Semi-Truck Wash

**CLASSIFICATION**

An establishment engaged in the washing, waxing, or cleaning of a heavy-duty truck or semi-truck, in which the owner of the vehicle washes the vehicle or waits while the facility washes the vehicle for a fee.

### 119. Truck, Trailer, Boat, and RV Sales or Rental

**CLASSIFICATION**

An establishment engaged in the sale, lease, or rental of new or used semi-trucks, trailers, boats, or RVs, including ancillary uses such as minor vehicle repair and service, sales offices, and outdoor storage of vehicles.

## Light Industrial

### 120. Animal Processing (Slaughterhouse)

**CLASSIFICATION**

A facility engaged in the slaughtering and processing of animals and the refining of their byproducts for sale or distribution.

### 121. Animal Processing (Taxidermy)

**CLASSIFICATION**

An establishment engaged in the preparing, stuffing, and mounting of the skins of animals.

### 122. Artisan Manufacturing

**CLASSIFICATION**

Small-scale manufacturing and related processes or activities conducted indoors – including but not limited to application, assembling, compounding, design, fabrication, growing, making, packaging, processing, sculpting, teaching, treating of crafts or products, or welding – often by an artist, artisan, or craftsperson working with ceramic, clay, electronics, metal, paper, plastic, stone, textiles, wood, or similar materials either by hand or with minimal automation or technology, including but not limited to 3D printing. This use includes incidental storage, wholesaling of products manufactured at the facility, and direct sales to consumers.

This use includes the production of beer, wine, or spirits associated with an approved Small Brewer's License as governed by Section 60-6A-26.1 NMSA 1978, an approved Winegrower's License as governed by Section 60-6A-11 NMSA 1978, or an approved Craft Distiller's License as governed by Section 60-6A-6.1 NMSA 1978. Annual production shall be limited by State statute. This use does not include alcohol sales. Alcohol sales associated with brewing on-site is regulated pursuant to the tap room or tasting room use. See #92 Tap Room or Tasting Room.

### 123. Data Center

**CLASSIFICATION**

A facility used to house and manage computer systems, servers, networking equipment, and other related components for the purpose of collecting, processing, storing, and disseminating large amounts of data.

**STANDARDS**

Noise attenuation measures are required to ensure noise levels do not exceed 55 dBA when measured at the property boundary adjacent to land zoned for an NH District.

### 124. Hazardous Chemical Manufacturing or Storage

**CLASSIFICATION**

A facility not elsewhere classified engaged in the manufacturing and development of chemical products by conducting a chemical process on organic or inorganic raw material whereby hazardous or toxic waste or byproducts are created and disposed of. This definition also includes the on-site storage of such products.

### 125. Manufacturing or Fabricating

**CLASSIFICATION**

An indoor facility, not elsewhere classified, engaged in the assembly, fabrication, production, packaging, or other industrial processing of products primarily from extracted or raw materials or the bulk storage and handling of such products and materials, or an industrial establishment having potential to produce limited smoke, noise, dust, glare, odors or vibration off-site. Such uses commonly include an office component. A warehouse or distribution center is not typically open to the public.

**STANDARDS**

In the LI District, Manufacturing or Fabricating uses shall not exceed 60,000 sq. ft. of enclosed building area.

All operations must take place inside a building; however, outside storage is permitted as described in **Sec. 38-8.E.4. Outside Storage**.

### 126. Warehouse or Distribution Center

**CLASSIFICATION**

A building or structure used for the storage of goods or products for wholesale, distribution, or transfer to another location via freight, truck, or other similar transit method. Such uses commonly include an office component. A warehouse or distribution center is not typically open to the public.

## Heavy Industrial

### 127. Above-Ground Storage Tanks for Hazardous Materials

**CLASSIFICATION**

A facility used for the above ground storage of flammable and combustible liquids, including compressed gases or liquified petroleum gas, for use, sale or wholesale, or distribution.

**STANDARDS**

Tanks shall be permitted only when meeting Uniform Fire Code requirements as adopted by the City of Las Cruces, when receiving approval from the Las Cruces Fire Department, or when receiving approval from the State of New Mexico LP Gas Bureau.

### 128. Energy Production or Refinement

**CLASSIFICATION**

A facility engaged in converting one or more energy sources, including, but not limited to water, fossil fuel, nuclear, or solar, into electrical energy for distribution and utilization.

### 129. Excavation of Raw Materials

**CLASSIFICATION**

A facility engaged in the excavation, storage, and distribution of raw resources from the Earth, such as sand, gravel, minerals, lumber, or similar resources above ground.

**STANDARDS**

Such uses shall be a minimum of 400 feet from a residential district boundary or from an existing residential property.

## Animals and Agriculture

### 130. Animal Raising (Commercial Feed Lots)

**CLASSIFICATION**

A lot or parcel used for feeding livestock, poultry, or small animals for commercial purposes usually in lots, pens, ponds, sheds, or buildings where food is supplied primarily by means other than grazing, foraging, or other natural means. These operations meet the U.S. Environmental Protection Agency's latest regulatory definition of a Concentrated Animal Feeding Operation (CAFO). The current definitions can be found at https://www3.epa.gov/npdes/pubs/sector_table.pdf.

**STANDARDS**

See Chapter 7 of the Las Cruces Municipal Code for additional requirements.

### 131. Animal Raising (General Agriculture)

**CLASSIFICATION**

The raising and breeding of animals or production of animal products as the principal use of the lot. Typical uses include grazing, ranching, dairy farming, poultry farming, and beekeeping in accordance with Chapter 7 of the Las Cruces Municipal Code. This use does not include slaughterhouses, feedlot operations, and any use included in #130 Animal Raising (Commercial Feed Lots).

**STANDARDS**

See Chapter 7 of the Las Cruces Municipal Code for additional requirements.

Minimum lot size for livestock is half ( ½) acre.

### 132. Animal Services (Indoor Only)

**CLASSIFICATION**

A facility engaged in the medical or surgical treatment, grooming, or overnight boarding or day care of animals within an enclosed building.

### 133. Animal Services (With Outdoor Pens)

**CLASSIFICATION**

A facility engaged in the medical or surgical treatment, grooming, or overnight boarding or day care of animals within enclosed indoor and outdoor spaces.

### 134. Commercial Crop Farming

**CLASSIFICATION**

An area used for the growing of farm products, vegetables, fruits, flowers, trees, and/or grain and including the necessary accessory structures or uses for raising, treating and storing products raised on the premises.

### 135. Indoor Agriculture

**CLASSIFICATION**

The commercial breeding, planting, nourishing, caring for, gathering, or processing of animals or plants, such as fruits, flowers, vegetables, or other similar plants, completely within an enclosed building or structure.

### 136. Plant Nursery

**CLASSIFICATION**

A facility for the growing, display, or sale of plant stock, seeds or other horticulture items, including the raising of plants outdoors or in greenhouses for sale either as food or for use in landscaping.

### 137. Stables or Training

**CLASSIFICATION**

A lot or portion thereof used for the commercial boarding and training of livestock, such as horses, mules, dogs, ponies, and donkeys, for hire by the public.

### 138. Wind or Solar Farm

**CLASSIFICATION**

A lot or parcel housing all necessary equipment, such as wind turbines and solar panels, to harness and convert solar and wind energies into electricity for sale or distribution.

## Sec. 36-4. Additional Dimensional and Building Design Standards

### A. All Development

1. Structures, Items, or Building Projections in Required Setbacks

   a) No structure, item, or building projection, whether a building permit is required or not, shall be permitted within the required setbacks except flagpoles, walls and fences, or decorative structures such as a bird bath.

      i) Flagpoles and similar freestanding vertical items exceeding 6 feet in height must be set back from the property line a distance at least equal to its height to ensure an adequate fall-zone.

   b) A maximum encroachment of six inches into the required side yard setback shall be permitted for the following items:

      i) Security lighting;

      ii) Decorative lighting fixtures;

      iii) Security bars around windows and doors;

      iv) Door hardware and required molding around doors;

      v) Canales and downspouts when canales are capped at the end, open along the top and drainage is directed through the downspouts to appropriate on-lot pond locations in either the front or rear of the property.

   c) The ordinary projection of, for example, porches, stoops, sills, scuppers, cornices, ornamental features, roof overhangs, fireplace chimneys, buttresses and wing walls shall not extend into the required setback area more than two feet.

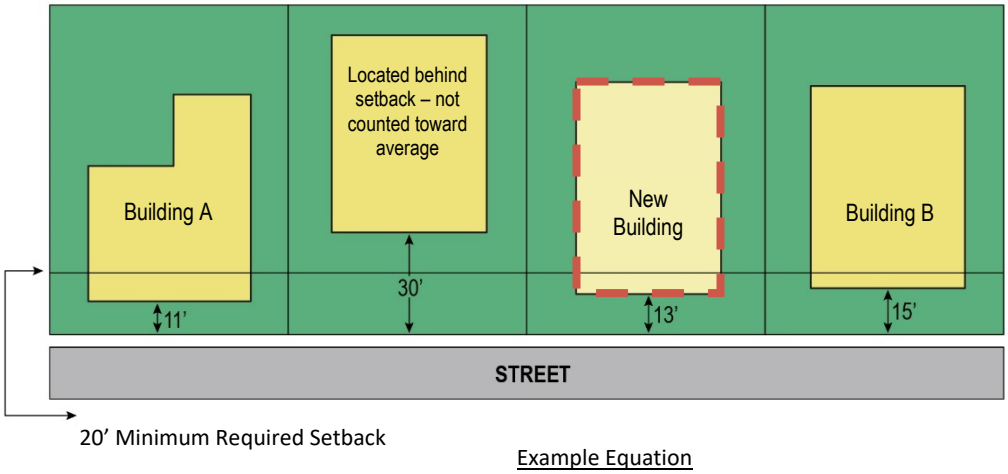
2. Right-of-Way/Easement Encroachments

   There shall be no permanent structures located on right-of-way or public easements without written approval of the governing agency.

3. Average Setbacks for Infill Areas

   When at least 40 percent of the lots on the same block face are developed, new buildings or additions to existing buildings may use the required front yard setback, or may extend into the front yard setback up to the average distance established by the existing buildings that are within the required setback.

**Figure 36-4-1. Average Setbacks for Infill Development**



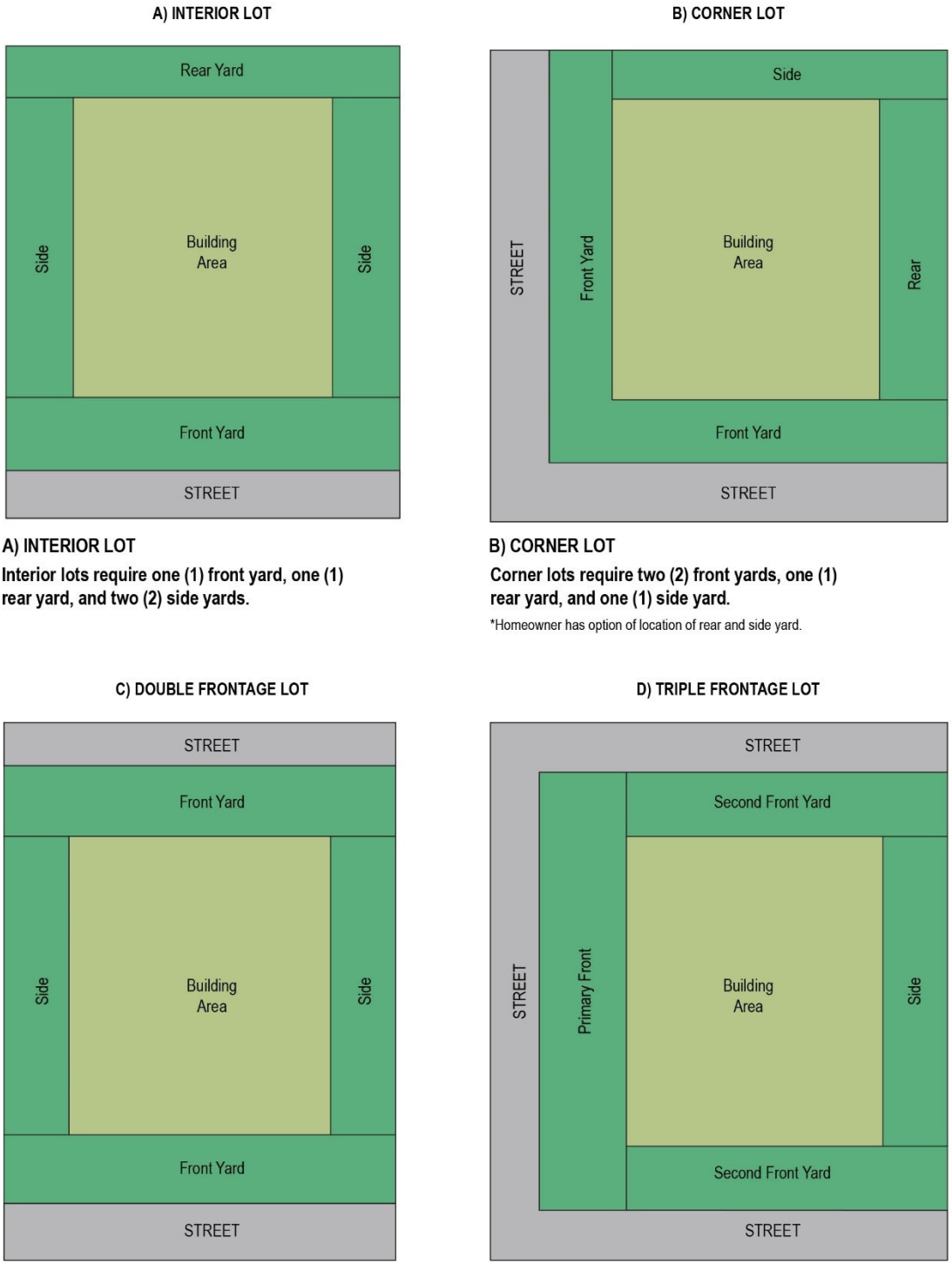

Example Equation

Building A 11' setback + Building B 15' setback = 26'

26' ÷ 2 = 13' setback is permitted for the New Building

4. Lot Requirements
    a) All side lines of lots shall be at approximately right angles to straight street lines and radial to curved street lines.
        i) The Development Review Committee may determine that a variation will provide a better street and lot layout (e.g., improved connectivity within a development, improved access to open space, lessened impact on adjacent properties).
    b) Every lot shall have direct access and at least 20 feet of frontage along a public street or other approved public access easement.
    c) As shown in **Figure 36-4-2. Yard Requirements** "B) Corner Lot", both frontages of a corner lot shall be considered a front yard.
5. Shipping Container Structures
    a) A shipping container structure is a large metal container originally designed for cargo transport and other intermodal freight containers that are reused for residential, retail, or other non-transportation purposes.
    b) Metal shipping containers are not allowed to be used as accessory structures in Zoning Districts, except in the case when the primary structure/dwelling is constructed using shipping containers.
    c) Said shipping containers used for storage purposes are permitted within the CR, Commercial/Retail District (Rural, Suburban, Urban), LI, Light Industrial District (Rural, Suburban, Urban), and HI, Heavy Industrial District (Rural, Suburban, Urban) provided they comply with all requirements of this **Sec. 36-4. Additional Dimensional and Building Design Standards**.
    d) Shipping containers are allowed on private property in all zones temporarily to store building materials and/or construction tools during construction pursuant to an active building permit on the same property or within a centralized location within a construction area. Said container(s) shall be removed upon completion of the project and/or issuance of a certificate of occupancy or completion.
    e) Shipping containers, PODS or similar "you pack" type moving containers are allowed within the front yard (driveway only) of residential uses for the purposes of packing/unpacking in preparation of or after a move to or from the subject property. Use of such containers shall be limited to 21 days (three weeks) after which the unit shall be removed from the property.

**Figure 36-4-2. Yard Requirements**




**A) INTERIOR LOT**

**Interior lots require one (1) front yard, one (1) rear yard, and two (2) side yards.**

**B) CORNER LOT**

**Corner lots require two (2) front yards, one (1) rear yard, and one (1) side yard.**

*Homeowner has option of location of rear and side yard.

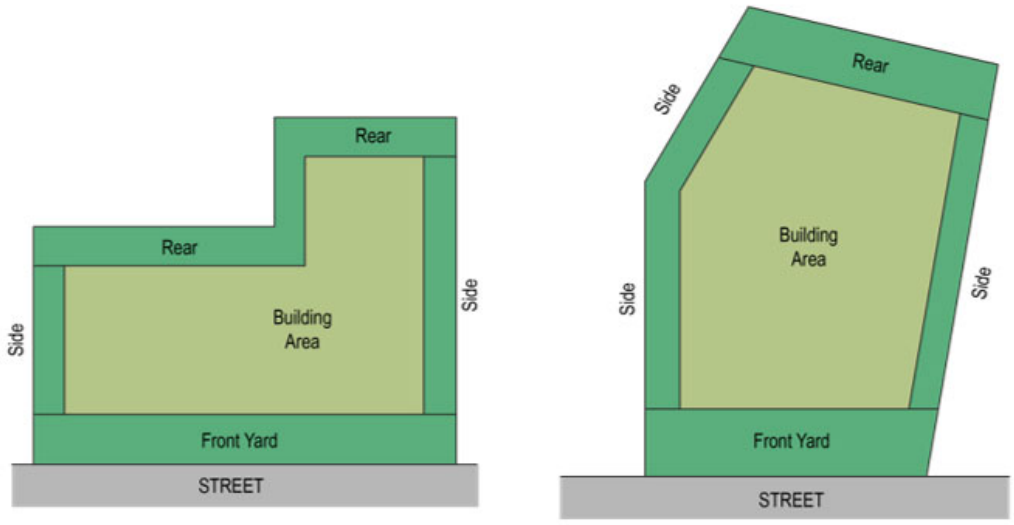
**C) DOUBLE FRONTAGE LOT**

**Double frontage lots require two (2) front yards, and two (2) side yards.**

**D) TRIPLE FRONTAGE LOT**

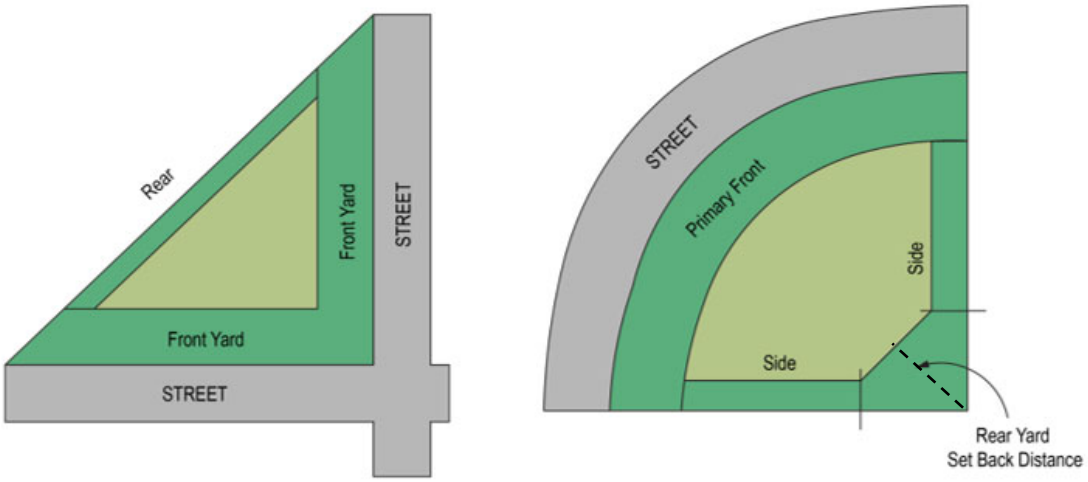
**Triple lots require three (3) front yards, and one (1) side yard.**

**Figure 36-4-3. Yard Requirements for Odd Shaped Lots**




**A) ODD SHAPED LOTS**

**On odd shaped lots, the rear yard is determined by the rear line that is most parallel to the front. This pentagonal-shaped lot would require one (1) front yard, (1) rear yard, and three (3) side yards.**




**B) TRIANGULAR LOT**

**This triangular lot would require two (2) front yards, one (1) rear yard.**

**C) PIE SHAPED LOT**

**This pie shaped lot requires calculation of the rear yard at a line measured from the corner, a distance of the required rear yard, mid-point between the two side property lines.**

## B. Single-Family Home, Duplex, Triplex, or Quadplex, and Townhouse Residential Development

1. Applicability

   The following requirements apply to all new Single-Family Home, Duplex, Triplex, or Quadplex, and Townhouse residential developments.

2. Accessory Structures

   a) The dimensional regulations in **Figure 36-4-4. Accessory Structure Requirements** shall apply to all Accessory Structures, with the exception of Accessory Structures associated with agricultural, farm, or equestrian uses on residential lots.

**Figure 36-4-4. Accessory Structure Requirements**

| Standard | Lots up to 19,999 sqft | Lots 20,000 sqft and greater |
|---|---|---|
| Maximum Floor Area of All Accessory Structures Combined | 1,100 sqft | 5% of the lot area |
| Maximum Height of Accessory Structures | Not to exceed the height of the Main Building | |
| Maximum Number of Accessory Structures | 3 | 4 (excluding agricultural barns) |
| Maximum Building Area Coverage | Main Buildings and Accessory Structures shall not exceed the allowable coverage percentage of the zoning district in which they are located. | |
| Minimum Front Setback | Carports shall be set back at least 5 feet from the front property line and shall not encroach into a utility easement unless a written affidavit and county clerk filing is completed. | |
| | Carports for RVs shall be set back at least 20 feet from the front building facade | |
| Minimum Side Setback | 3’ | 3’ |
| Minimum Rear Setback | 3’ | 3’ |

   b) An Accessory Structure shall not be utilized for human habitation except in the case of an Accessory Dwelling.

   c) No Accessory Structures may be permitted on a property without an associated primary residential use, except in the case of property used for agricultural, farm, or equestrian uses.

   d) No permit is required for Accessory Structures less than 120 square feet in floor area and less than 13 feet in height, unless it will be used as an Accessory Dwelling.

   e) Accessory Structures are prohibited within easements.

   f) Accessory Structures 120 square feet or larger shall be finished on the exterior with similar construction materials and similar coloring as the principal dwelling. Metal building material may be used, provided the accessory structure is of a same or compatible architectural style and colors as the principal dwelling.

   g) Any accessory structure in the front yard shall be outside of the front yard setback.

3. Carports

   a) For a carport visible from a public right-of-way, the carport design should be consistent with the main building.

   b) Carports in the front yard must be attached to the main building.

   c) A building permit is required for an attached carport, as it is an addition to the residence. If detached, then it is considered an accessory structure.

4. Dimensional Standards for Palliative
5. Any agent used to lessen or reduce dust emissions.
6. Patio Homes and Townhouses

   No side yard setback is required for one side of Palliative

   Any agent used to lessen or reduce dust emissions.

   Patio Homes or the interior side(s) of Townhouses, subject to the following:

   a) Lot widths for Palliative

   b) Any agent used to lessen or reduce dust emissions.

   c) Patio Homes or Townhouses may be reduced to 20 feet. A zero-setback side shall not directly abut any other development or land use type.

   d) Exterior side yard setbacks (i.e., the side that is not the zero-setback side) must comply with the applicable zoning district requirements.

   e) Zero lot line development shall meet all adopted building and fire codes.

7. Cluster Development

   a) The purpose of cluster development is to provide open space in residential developments by allowing reductions in minimum lot areas or increases in densities. This approach allows the preservation of natural features, decreases impervious cover, supports housing variety, and creates unique neighborhoods.

   b) Cluster developments are allowed in any Suburban Character Area or Rural Character Area.

   c) The minimum size of a cluster development shall be five acres.

   d) Only uses permitted in the district may be used in the development.

   e) A minimum of 30 percent of the land must be preserved as either natural or Usable Open Space. This land must be in addition to any required park dedication. The preserved land must be accessible to all residents. The preserved area must be designated on the plat and remain open space indefinitely.

   f) There is no minimum lot area, width, or depth, but a minimum 20-foot street frontage is required for every lot.

   g) Method of Calculation

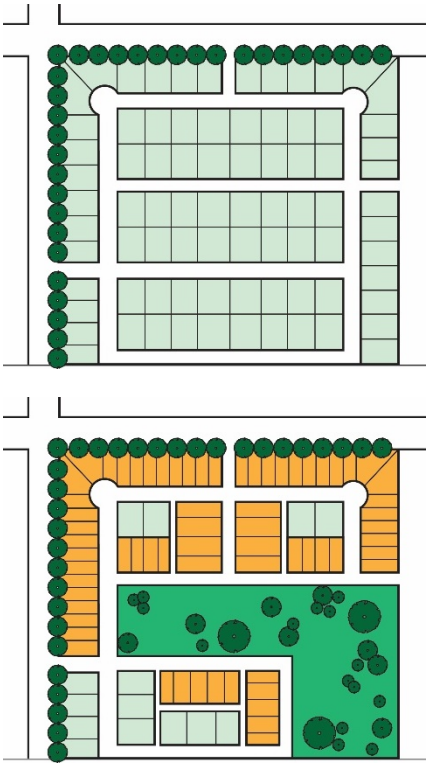
      i) Calculate the number of dwelling units permitted on the site based on the zoning district under typical development practices.

      ii) If at least 30 percent of the site is conserved, then the number of dwelling units may be up to 50 percent more than the number of units that would have been permitted with traditional development.

      iii) If at least 50 percent of the site is conserved, then an increase of 100 percent in the number of units is permitted.

   h) The City may agree to accept ownership and maintenance responsibilities of the conserved land if the area is at least 2 acres in contiguous area.

**Figure 36-4-5. Conventional (Top) and Cluster (Bottom) Development**



8. Residential Anti-Monotony Standards

   Adjacent single-family, duplex, or townhome housing facade designs must differ from one another by at least four of the following design options (exception: residential units that are attached by at least one common wall are not be considered adjacent units for purposes herein stated).

   a) Surface material;

   b) Color of house;

   c) Reversed floor plans;

   d) Roofing styles;

   e) Variation in building heights;

   f) Ornamental fixtures (e.g., vigas, portales, latias);

   g) Location and shape of windows and doors;

   h) Variation in front yard patios, walls, garages, etc.;

   i) Variation in front yard setbacks. A minimum five-foot variation must be used to qualify for this item. All setback requirements as determined by zoning district still apply in this instance.

**Figure 36-4-6. Residential Anti-Monotony Examples**




Development on a Block

- Varying front yard setbacks
- Location of doors
- Reversed floor plans
- Variation in front yard patios, walls, garages



Elevations

- Roofing styles
- Ornamental fixtures
- Color of house
- Varying building heights

## C. Nonresidential, Mixed-Use, and Multi-Family Development

1. Applicability

   The following requirements apply to all new nonresidential, mixed-use, and multi-family development.

   a) Exception: The requirements herein do not apply within the HI, Heavy Industrial District (Rural, Suburban, Urban).

2. Building Materials

   a) At least 80 percent of the collective walls of a building shall be finished in one or more of the following building materials:

      i) Stucco or plaster;

      ii) Brick, stone, cast stone, rock, marble, granite, glass block, or tile;

      iii) Glazing;

      iv) Split-face concrete block, poured-in-place concrete, and tilt-wall concrete.

         a. Any use of concrete products shall have an integrated color and be textured or patterned.

         b. Tilt-wall concrete structures shall include reveals, punch-outs, or other similar surface characteristics to enhance the wall on at least 10 percent of each wall;

      v) Exterior insulation and finish system (EIFS); and/or

      vi) Fiber cement siding (e.g., HardiePlank).

   b) Side and rear walls shall be finished in a similar color as the front of the building.

3. Front Facade Entry Requirements

   a) A front facade shall be articulated and designed to present a distinctive entry presence, emphasizing the building's entry point along the facade.

   b) Each building shall provide a sheltered or recessed entry.

   c) The primary entrance shall front a public street with a walkway connecting to a front sidewalk.

4. Building Articulation

   a) Facade Articulation

      i) Buildings with facades over one hundred feet in length shall incorporate wall projections or recesses, or changes in wall plane a minimum of two feet in depth a maximum of every seventy-five feet.

      ii) The offset(s) may be divided and distributed throughout the length of the wall if the applicant demonstrates, to the satisfaction of the Community Development Director, that the intent of this section has been met by providing an equal or better aesthetic result from the public right-of-way.

   b) Height Articulation

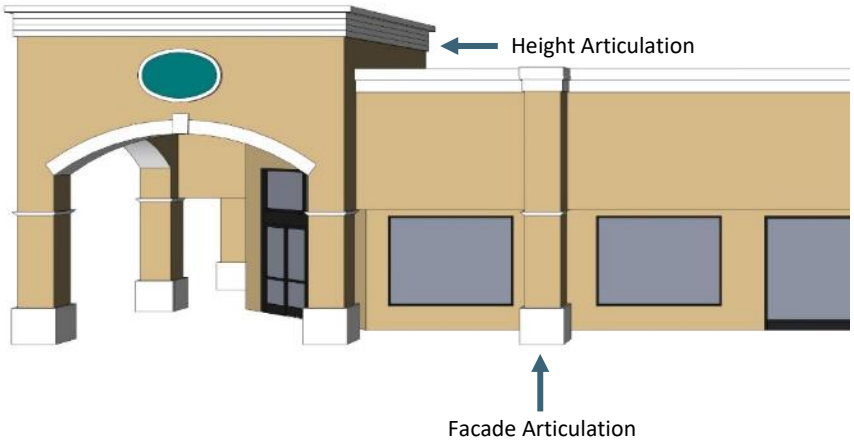
      i) Buildings with roofline adjacent to or visible from a public right-of-way shall not extend in a continuous plane for more than one hundred feet without offset of the roof plane. Rooflines must be visually broken up by providing articulations in the facade of buildings, change in the height of portions of roofs, or change in color, material, or forms.

      ii) The offset(s) may be divided and distributed throughout the length of the wall if the applicant demonstrates, to the satisfaction of the Community Development Director, that the intent of this section has been met by providing an equal or better aesthetic result from the public right-of-way.

      iii) Alternatively, vertical articulation requirements may be met with an enhanced decorative cornice along the entire length of the facade if the applicant demonstrates, to the satisfaction of the Community

Development Director, that the intent of this section has been met by providing an equal or better aesthetic result from the public right-of-way.

**Figure 36-4-7. Example of Horizontal and Vertical Articulation**




5. Architectural Features

   All building walls shall incorporate at least three of the architectural features listed in **a)** and/or **b**) below. Building walls greater than 100 feet in length or buildings greater than 30 feet in height shall incorporate an additional item from Subsection **b**) below.

   a) Awnings, canopies, canales, vigas, portales, latias, ornamental cornices, pillar posts, decorative light features, integrated planters or water features, or other similar building element features as approved by the Community Development Director.

   b) Arcades, covered porches, alcoves, porticos, varied wall surfaces, enhanced building wall materials, or other similar building elements as approved by the Community Development Director.

6. Additional Multi-Family Residential Amenities

   The following requirements also apply to all new multi-family and mixed-use development with 13 or more units. These requirements are in addition to recreational amenities included in **Sec. 38-5. Parks, Trails, and Open Space**.

   a) Amenities and open space must be provided in accordance with the following:

      i) 13-49 units: One balcony, patio, or roof terrace for at least 20 percent of all units; one courtyard or community garden; and one amenity from the list below.

      ii) 50-99 units: One balcony, patio, or roof terrace for at least 35 percent of all units; two courtyards and/or community gardens; and two amenities from the list below.

      iii) 100-199 units: One balcony, patio, or roof terrace for at least 50 percent of all units; three courtyards and/or community gardens; and three amenities from the list below.

      iv) 200+ units: One balcony, patio, or roof terrace for at least 65 percent of all units; four courtyards and/or community gardens; and four amenities from the list below.

   b) Potential Amenities

      i) Swimming pools (1,000 sqft minimum) with a cooling deck;

      ii) At least four grills with shaded seating areas;

iii) Shade structure covering at least 1,000 sqft of recreation space;

iv) Bike storage area (1,000 sqft minimum) and repair station;

v) Child play area (minimum 3,000 sqft with play structure or other similar facility);

vi) Splash pad (1,000 sqft minimum);

vii) Dog park (5,000 sqft minimum) with a vinyl-coated chain link fence at least 5 feet in height; grass, wood chips, or a combination of the two for groundcover; and at least one bag dispenser and waste bin along the perimeter for every 2,500 sqft of park;

viii) Regulation size volleyball, basketball, tennis, or other similarly related playing court;

ix) Golf putting green (1,000 sqft minimum);

x) Fitness center/weight room (500 sqft minimum);

xi) Business center (500 sqft minimum);

xii) Media room (500 sqft minimum); and/or

xiii) Other similar amenities determined to the comparable in providing quality of life benefits to residents, as determined by the Community Development Director.

## Sec. 36-5. Zoning Procedures

### A. Zoning Map Amendments

**Figure 36-4-1. Zoning Map Amendment Process Summary**




1. The Zoning Map may be amended (i.e., rezonings, boundary changes, or district changes) in accordance with NMSA 3-21-6, as amended.
2. Application Procedures

   Application submittal requirements for a zoning map amendment include, but are not limited to, the following:

   a) Official zoning application that meets the following conditions:

      i) The application shall be signed by all property owners of record (including all trustees of an estate or all persons that have a specific "power of attorney" for the subject property as recorded in the County Clerk's Office). Persons who have an equitable interest in the subject property, but no legal title, shall not be deemed the "owners of record" of said property for purposes of this Code. The Community Development Director may reject any application if the ownership of the subject property is not clearly established.

      ii) Any pending litigation or any Final Order entered by any Court of Law regarding the ownership of the subject property shall be disclosed by the applicant at the time the application is submitted.

      iii) The application shall include a copy of notification letter to the noticed area and copy of minutes (summary or verbatim) from meeting pursuant to **Sec. 34-3.H. Early Notification and Meeting Requirements** (if applicable).

      iv) The application shall include a development statement that describes the intended use and characteristics of the proposed development.

      v) The applicant may opt to provide a Site Plan for consideration.

   b) Submittal fee,

   c) Notarized affidavit,

   d) Copy of property's survey and legal description:

      i) An accurate and complete boundary survey shall be made of the land to be rezoned. Property lines shall be shown, giving the bearings in degrees, minutes, and seconds.

      ii) Distances shall be shown in feet and hundredths.

      iii) Curved boundaries or lines on the survey shall provide sufficient data to enable the re-establishment of curves on the property.

      iv) The location and description of all monuments set or found shall be included where applicable.

      v) The survey must indicate the area of the requested zoning district(s), including survey descriptions of the various district boundaries.

   e) Copy of site plan (if applicable),

   f) A drainage facilities plan, environmental impact statement and/or other items not listed above may be required by the Community Development Director, the Planning & Zoning Commission, or the City Council.

   g) Description and justification of requested variances (if applicable),

   h) Request and justification to waive submittal requirements (if applicable), and

i) For rezoning requests of areas 40 acres or larger, a Master Development Plan in accordance with **Sec. 37-3.A. Master Development Plan** shall be submitted in conjunction with the rezoning application.

j) Verification that the Future Development Map (FDM) is consistent with the proposed Zoning Map Amendment. If the FDM is not consistent with the proposed Zoning Map Amendment, then documentation showing the FDM changes with justification shall be provided.

3. Criteria for Review and Decisions

a) In considering all Zoning Map amendment requests, the decision-maker shall determine if the request is consistent with the goals of the Comprehensive Plan to enhance livability, prosperity, and environment for the shared benefit of current and future generations and the zoning code which allows flexibility and context sensitive design.

b) The decision-maker shall consider present and future needs and promote the health, safety, order, prosperity, and general welfare of the people. It shall also promote efficiency and economy in the process of development.

c) The decision-maker shall encourage the proper use and development of land, shall seek to create and maintain an aesthetic setting, and protect and preserve the quality of the water, air, and other environmental, natural, historical and cultural resources for the City.

4. Review and Recommendation – Community Development Director

The Community Development Director shall review the submittal and prepare a written staff report with recommendations, which shall be provided to the Planning & Zoning Commission and City Council along with the Zoning Map Amendment. The report shall recommend that the amendment be approved, conditionally approved, disapproved, or postponed.

5. Public Meeting and Notice Required

a) No zoning regulation, restriction or boundary shall become effective, amended, supplemented or repealed until after a public meeting at which all parties in interest and citizens shall have an opportunity to be heard.

b) Notice shall be provided in accordance with **Sec. 34-3.G. Notice for a Public Meeting**.

6. Public Meeting and Recommendation – Planning & Zoning Commission

a) Following a recommendation by the Community Development Director, the Planning & Zoning Commission shall hold a public meeting on the proposed amendment, then provide a report and recommendation to the City Council to approve or deny the proposed amendment.

b) The recommendation may be made by a simple majority vote of the Planning & Zoning Commission.

7. Public Meeting and Final Action – City Council

a) Following receipt of the report and recommendation from the Planning & Zoning Commission, the City Council shall hold a public meeting to approve or deny the proposed amendment.

b) Zoning Map Amendments may be approved by a simple majority vote of the City Council.

i) Exception: In accordance with NMSA 3-21-6.C, if the owners of 20 percent or more of the area of the lots and of land included in the area proposed to be changed by a zoning regulation or within 100 feet, excluding public right-of-way, of the area proposed to be changed by a zoning regulation, protest in writing the proposed change in the zoning regulation, the proposed change in zoning shall not become effective unless the change is approved by a majority vote of all the members of the City Council (as opposed to a majority of those in attendance with a quorum).

ii) Special Use Permits shall not be considered a zoning district change.

iii) A Zoning Variance may be approved as part of a zoning district change request.

iv) The City Council is also authorized to remand the request back to the Planning & Zoning Commission for further study and consideration.

8. Recordation of Zoning Map Amendment

When approved by the City Council and the 30-calendar day appeal period has expired, the zoning district change shall be recorded and shown on the Zoning Map.

## B. Site Plans

1. Purpose

   The purpose of the Site Plan is to facilitate the review of proposed improvements to property. Through Site Plan review, the City and other jurisdictional agencies can effectively apply the standards of this Development Code and other applicable development standards to multi-family, mixed-use, and nonresidential development.

2. Applicable Regulations

   All Site Plans must conform to applicable requirements and regulations found in the following documents:

   a) This Development Code;

   b) Fire Code;

   c) Building Code; and

   d) The Technical Manual and resources outlined in **Sec. 34-1.F. Technical Manual and Other Technical Resources**.

3. Site Plan Applicability

   The following applications require Site Plan approval:

   a) A request for approval to construct or expand any building.

      i) Exception: A Site Plan is not required if a Building Permit is not required.

   b) A request for approval of a Planned Unit Development district (see **D. Planned Unit Developments (Error! Reference source not found.**s), unless otherwise exempted in this Development Code or in the ordinance adopting the Planned Unit Development district; or

   c) A request for approval of a Special Use Permit (see **C. Special Use Permits (Error! Reference source not found.**s)).

4. Approval Process

   a) Administrative Site Plan

      i) The Community Development Director is responsible for approving a Site Plan with no associated Special Use Permit if it meets all the requirements of this Development Code.

      ii) The Community Development Director may authorize review and approval of a Site Plan simultaneously with review and approval of a Building Permit, Landscape Plan, Lighting Plan, or other plans required by this Development Code.

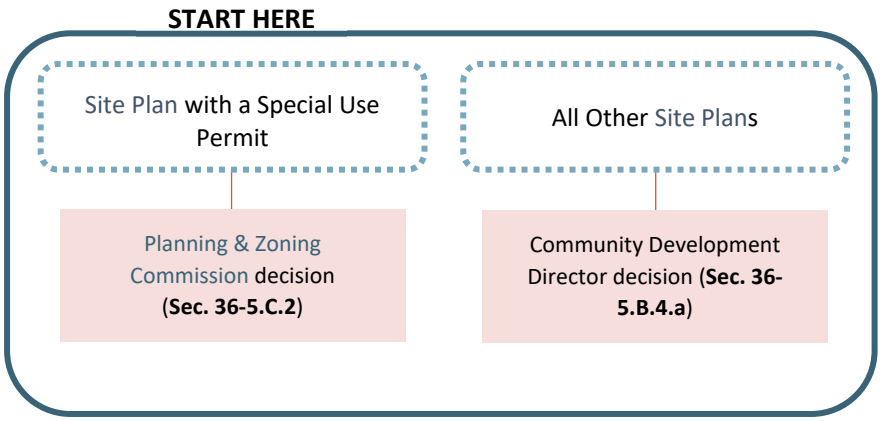
      iii) Community Development Director Action

      The Community Development Director will inform the applicant of their decision, identify any deficiencies, and provide instructions for the resubmittal of corrected plans, if applicable.

   b) Site Plan with a Special Use Permit (**Error! Reference source not found.**)

      A Site Plan submitted as part of an **Error! Reference source not found.** shall require a public meeting and decision by the Planning & Zoning Commission.

**Figure 36-5-2. Site Plan Types and Processes Summary**




5. Use of Existing Building

   a) If the Site Plan request involves the use or expansion of existing buildings or structures, the Building Official may conduct an inspection of buildings or structures to be utilized or expanded to determine the adequacy of the buildings or structures to support the proposed use and to make recommendations for improvements to the buildings or structures.

   b) The decision-maker may conditionally approve of the Site Plan subject to compliance with the Building Official's recommendations, and the Building Official may withhold a Certificate of Occupancy if the buildings or structures do not comply with the conditions.

6. Site Plan Effect of Approval

   a) By approving a Site Plan, the City authorizes the applicant to submit Construction Plans for approval of a Building Permit.

   b) During the time the Site Plan remains valid, the City will not apply additional requirements concerning development features shown on the Site Plan (e.g., building placement, streets, drives, parking, landscaping, or screening).

7. Amendments to Administratively Approved Site Plans

   The Community Development Director may approve changes requested by the applicant to a Site Plan that was originally approved administratively without requiring the applicant to submit a new Site Plan if the Director determines that the modified Site Plan substantially conforms to the previously applied Site Plan; otherwise, a new Site Plan submittal is required.

8. Amendments to SUP Site Plans

   For amendments to Site Plans approved as part of an **Error! Reference source not found.**, see **Sec. 36-5.C.2.f) Revisions to an Approved Error! Reference source not found.**.

9. Dormant Site Plans and Site Plan Expiration

   a) A Site Plan approval expires two years from the approval date unless an applicant or property owner demonstrates Progress Toward Completion within the same phase (if applicable) or a new Site Plan is approved for the property.

      i) A Site Plan associated with an **Error! Reference source not found.** expires in conjunction with the **Error! Reference source not found.**. See **Sec. 36-5.C.3. Error! Reference source not found.** Expiration.

   b) If a Site Plan expires, all vesting claims shall also expire on the property, and the applicant must submit a new Site Plan subject to the regulations in place at the time.

10. Revocation of Site Plan Approval

    The City may revoke approval of a Site Plan if the City determines that the applicant has not met the conditions of approval or if the Site Plan contains, or is based upon, incorrect information or if approval was obtained using fraud or deceit.

11. Additional Development, Site Modifications, or Redevelopment

    Following the completion of improvements shown on an approved Site Plan, additional development, site modifications, or redevelopment of the site shall be permitted subject to the approval of a revised Site Plan, which shall be considered a new project and shall require submittal and approval of a revised Site Plan.

12. Site Plan Submittal Requirements

    The Site Plans shall be at a scale that adequately represents the information as determined by the Community Development Director. The plans shall be prepared electronically in PDF format or other approved format. Plans shall be legible and of a good quality, with no limit to the number of sheets used. The plans shall indicate the following:

    a) Title of Site Plan.

    b) Total acreage of site.

    c) Date of preparation, north arrow, written and graphic standard engineering scale.

    d) Identification of site by lot, block, subdivision, if applicable.

    e) A statement of ownership, signed by the property owner.

    f) Name and address of property owner.

    g) Name and address of applicant, if applicable.

    h) Name and address of consulting firm or representative, if applicable.

    i) Location and type of all land uses.

    j) All site improvements with all setbacks indicated.

    k) All easements of record.

    l) Dimensions of all buildings.

    m) Existing and proposed vehicular circulation systems, including parking areas, storage areas, service areas, loading areas, and major points of access, including street pavement width and right-of-way.

    n) A landscaping plan, to include the location, size, common name, and biological name of all landscaping materials.

    o) Pedestrian and bicycle circulation system and its relation to surrounding circulation.

    p) Where applicable, location and arrangement of all open space, common recreational space, and private open space.

## C. Special Use Permits (Error! Reference source not found.s)

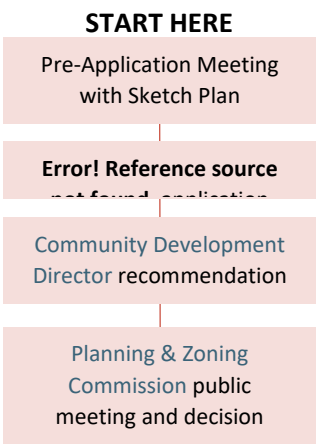



**Figure 36-5-3.** Error! Reference source not found. **Process**

1. General Provisions

   a) A Special Use Permit (**Error! Reference source not found.**) is required to allow a use that is not permitted by right in a zoning district and requires review and approval by the Planning & Zoning Commission to determine impacts on the surrounding area. Uses eligible for **Error! Reference source not found.** approval are designated in **Figure 36-3-2. Permitted Use Chart**.

   b) Approval of an **Error! Reference source not found.** is not a zoning district change.

2. Review Procedures

   The procedures for such approval are as follows:

   a) Pre-Application Meeting

   Any proposed **Error! Reference source not found.** shall first be reviewed at a pre-application meeting scheduled and held by the Community Development Department. The submittal of a Sketch Plan is required for the pre-application meeting for an **Error! Reference source not found.**. See **Sec. 34-3.B. Pre-Application Meeting** for more information.

   b) Application Procedures

      i) An official application for an **Error! Reference source not found.** shall be obtained from the Community Development Department. Application requirements shall include, but not be limited to:

         a. A letter of intent stating the following:

            i. A statement of the purpose and use of the property,

            ii. All property improvements to be made, and

            iii. A development schedule indicating the approximate dates at which construction or phases of construction will begin and end.

         b. An accurate and complete boundary survey shall be made of the land to be developed. Property lines shall be shown, giving the bearings in degrees, minutes, and seconds. Distances shall be shown in feet and hundredths. Curved boundaries or lines on the survey shall provide sufficient data to enable the re-establishment of curves on the property. The location and description of all monuments set or found shall be included where applicable. If only part of the property is to be used for the Special Use, the limits or boundary of the Special Use shall be described in addition to the entire property.

         c. A Site Plan in accordance with **B.12. Site Plan Submittal Requirements**.

         d. Architectural renderings or artistic drawings. The drawings shall be provided electronically in PDF format. Drawings shall be legible and of a good quality, with no limit to the number of sheets used. The drawings shall illustrate the following:

            i. All new development illustrating all exterior building materials and colors.

            ii. All new development illustrating relationships to neighboring uses, including site lighting.

            iii. Sign location, materials, color, size, shape, and lighting.

         e. A drainage facilities plan, environmental impact statement and/or other items not listed above may be required by the Community Development Director, or the Planning & Zoning Commission.

         f. Copy of early notification letter to the defined noticed area and copy of minutes (summary or verbatim) from any required meeting pursuant to **Sec. 34-3.H. Early Notification and Meeting Requirements** (if applicable).

ii) Application materials that are illegible and/or otherwise of a low quality will not be accepted.

iii) A portion of the submittal requirements may not be required in all cases. Upon receipt of a written request justifying the deletion of required information, the Community Development Director may waive any submittal requirement. The Planning & Zoning Commission may require additional items and resulting information in addition to the submittal requirements as per this section. Additional items and/or information requested by staff may include, but are not limited to, the need for early notification to a neighborhood group(s) and/or defined noticed area. Additional requests shall be justified in writing. The City Council may require additional information before acting on an appeal.

c) Community Development Director Recommendation

The Community Development Director shall review the submittal and prepare a written staff report with recommendations, which shall be provided to the Planning & Zoning Commission along with the **Error! Reference source not found.**. The report shall recommend that the **Error! Reference source not found.** be approved, conditionally approved, disapproved, or postponed.

d) Public Meeting and Notice

A public meeting shall be held by the Planning & Zoning Commission for all Special Use Permits with notice in accordance with the provisions of **Sec. 34-3.G. Notice for a Public Meeting**.

e) Review and Approval Procedures

The Planning & Zoning Commission may deny an **Error! Reference source not found.** request or may grant final approval including the minimum conditions listed in **Sec. 36-3.B. Use Classifications and Use-Based Standards**. Also, approval may be granted with additional conditions imposed which are deemed necessary to implement the Comprehensive Plan, to ensure compatibility with surrounding development, and to ensure that the purpose and intent of this Code are met to protect and provide safeguards for persons and property in the vicinity. Any applicable development conditions in addition to those required by this Development Code shall be noted on the Certificate of Occupancy. Appeal of a Planning & Zoning Commission decision may be made in accordance with **Sec. 34-3.F. Appeals**.

f) Revisions to an Approved **Error! Reference source not found.**

Any major revision proposed to the **Error! Reference source not found.** and Site Plan shall require resubmittal of the **Error! Reference source not found.** and Site Plan in their entirety. Minor revisions that do not affect the overall intent of the **Error! Reference source not found.** and Site Plan may be approved by the Community Development Director. Major revisions to the Special Use Permit and Site Plan shall include, but are not limited to:

i) Any change in land use,

ii) A 15 percent cumulative increase in land use or building square footage,

iii) A 15 percent cumulative increase in vehicular traffic on any roadway segment or intersection,

iv) Any increase in size of the **Error! Reference source not found.** area,

v) Any reduction in screening, screening buffer yards, and setbacks at the Special Use boundary line, and

vi) A 15 percent cumulative increase in the buildable area for structures including signs.

g) Recording of the **Error! Reference source not found.**

After approval, the **Error! Reference source not found.** shall be issued by the Community Development Director and shall include all information, conditions, reference to site plans, and other provisions of the **Error! Reference source not found.**. The **Error! Reference source not found.** shall be filed in the City Clerk's Office. The **Error! Reference source not found.** shall not become effective until adequate evidence of filing in City records has been provided to the Community Development Director.

3. **Error! Reference source not found.** Expiration

Unless otherwise specified by the Planning & Zoning Commission's approval, an **Error! Reference source not found.** will expire if the applicant does not obtain a Certificate of Occupancy within 36 months of the Planning & Zoning Commission's approval.

## D. Planned Unit Developments (Error! Reference source not found.s)

1. General Provisions

   a) Planned Unit Developments (**Error! Reference source not found.**s) are intended to promote development that is consistent with the comprehensive plan and that otherwise cannot be accommodated by the Development Code using existing mechanisms (e.g., Flexible Development Standards or Zoning Variances). The **Error! Reference source not found.** process is not intended as a method to avoid the Code's standards.

   b) An applicant shall not be granted a deviation to the standards without providing a public benefit to the community that exceeds the standard of typical development and requirements. Examples of such benefits may include but are not limited to sustainable development, housing affordability/variety, enhanced open space and recreational amenities, public art, historic preservation, enhanced accessibility, public facilities (e.g., school site) or other development features that implement the vision of the Comprehensive Plan.

   c) All contiguous property owned or legally controlled by the applicant shall be included within the **Error! Reference source not found.**.

2. Review Procedures

   a) Authorization

   A **Error! Reference source not found.** is a zoning district change and is not permitted by-right in any zoning district. The procedures and requirements in this section shall govern the development of a **Error! Reference source not found.**.

   b) Process

   Each PUD shall require the following steps:

   i) Step 1: Pre-Application Meeting with a Sketch Plan;

   ii) Step 2: Concept Plan with zoning action;

   iii) Step 3: Platting, if required; and

   iv) Step 4: Site Plan(s)

   c) Step 1: Pre-Application Meeting

   Any proposed **Error! Reference source not found.** shall first be reviewed at a pre-application meeting scheduled and held by the Community Development staff. The submittal of a Sketch Plan is required for the pre-application meeting for a PUD. See **Sec. 34-3.B. Pre-Application Meeting** for more information.

**Figure 36-5-4. PUD Process Summary**



d) Step 2: Concept Plan

i) Concept Plan Purpose

The Concept Plan is intended to serve as a tool that can assist in identifying the appropriateness of a proposed development within the context of its surroundings. The Concept Plan forms the basis for approval of the **Error! Reference source not found.**.

ii) Concept Plan Application Submittal

The Concept Plan and supplemental application material shall be submitted to the Community Development Department no later than 60 calendar days prior to the date of the regular meeting of the Planning & Zoning Commission. The application is subject to a determination of completeness by City Staff (see **Sec. 34-3.C.4. Complete Application** for more information).

iii) Approval Criteria

The Concept Plan may be approved only if it includes the following findings:

a. The proposed construction and use of the **Error! Reference source not found.** will not be detrimental to the health, safety, or welfare of the community or adjacent neighborhood;

b. There is or will be adequate sewage capacity, roadway capacity, bicycle and pedestrian connectivity and accommodations, energy supply, and potable water supply to serve the **Error! Reference source not found.** at the time a certificate of occupancy or letter of acceptance, as applicable, is to be issued;

c. The PUD conforms to the intent, goals, objectives, policies, and standards of all City plans and codes (unless deviations are specifically noted);

d. The uses proposed, including their density and intensity, are appropriate to the character of the neighborhood and will have a positive aesthetic effect on the neighborhood in which the **Error! Reference source not found.** will be located; and

e. The proposed uses will not subject surrounding properties and pedestrians to hazardous traffic conditions.

iv) Community Development Director Recommendation

The Community Development Director shall review the submittal and prepare a written staff report with recommendations, which shall be provided to the Planning & Zoning Commission along with the Concept Plan. The report shall recommend that the Concept Plan be approved, conditionally approved, disapproved, or postponed.

v) Concept Plan Public Meetings and Approval

The Planning & Zoning Commission and City Council shall act upon the Concept Plan application in accordance with **A. Zoning Map Amendments**. The applicant or applicant's representative shall be present at the public meetings for the proposal to be considered. If the applicant or representative is not at the public meetings, the Concept Plan shall be postponed until the next regular meeting. The decision-makers may impose additional conditions as part of the terms of approval.

vi) PUD Shown on Zoning Map at Concept Plan Approval

If the Concept Plan is approved or conditionally approved by the City Council, the **Error! Reference source not found.** shall be shown on the Zoning Map as a **Error! Reference source not found.** replacing the existing zoning districts.

vii) Concept Plan Effective Period

The approved Concept Plan shall be effective for a period of five years. If a Site Plan for all or part of the area has not been approved by the expiration of the five-year period, the Concept Plan shall expire and a

new Concept Plan will be required. If the property owner desires to revert the property to its previous zoning (or any other zoning designation besides the approved **Error! Reference source not found.**), a rezoning in accordance with **A. Zoning Map Amendments** is required.

viii) Concept Plan Submittal Requirements

A request for review of a Concept Plan shall include the following information:

a. Official Application and Development Statement, including the identification of the district upon which the PUD regulations are based unless otherwise stated in the **Error! Reference source not found.**;

b. Submittal fee;

c. Waiver request and justification to delete submittal information, if applicable;

d. Descriptions of deviations to planning-related development standards and the public benefits to be provided;

e. Association by-laws (may be submitted with each Site Plan);

f. Concept Plan. The following information shall be provided on the Concept Plan and supporting maps and drawings:

i. Name of Concept Plan.

ii. Name, address, and telephone number(s) of property owner(s), developer(s), and consultant(s) preparing the Concept Plan.

iii. Detailed area map showing the surrounding area within one-half mile and the **Error! Reference source not found.** in relationship to adjacent parcels, existing roadways, and natural or constructed features that may impact or be impacted by the **Error! Reference source not found.**.

iv. North arrow, date of preparation, and written and graphic standard engineering scale.

v. Legal description.

vi. Boundary lines of Concept Plan area with approximate length of lines and boundary lines of phases.

vii. For each lot, parcel, or tract, list proposed land uses and acreage and show the building envelope within which each structure will be located:

(a) Maximum number of dwelling units and maximum density.

(b) Maximum square footage of nonresidential uses.

viii. Proposed screening, screening buffer yard, and setback distances along the **Error! Reference source not found.** property line.

ix. Existing land uses and zoning on adjacent lots, parcels, or tracts.

x. Name of adjacent subdivisions (including the filing date, book, and page numbers), property owners, and zoning. If not subdivided, name of property owner.

xi. Twenty-foot contour intervals minimum or as appropriate.

xii. Proposed alignment of roadways and how they relate to the Comprehensive Plan and the Active Transportation Plan and the impacts created on the area road network, neighborhood, and other land uses. Impact data shall include the anticipated traffic volume generated by the proposed development, identification of the affected road network, and the additional traffic volumes associated for each road. If required, provide a Traffic Impact Study, including a roadway improvement schedule, consistent with the requirements of **Sec. 38-2.G. Traffic Impact Analysis**) and based on the latest recommendations from the Institute of Traffic Engineers.

xiii. Thoroughfare System: Identification of adjacent roadways and other transportation lines by functional classification; proposed location, length, width of all roadways, bikeways, trails, walkways, and any other transportation lines. Identify existing and proposed classification of roadways as per City of Las Cruces Design Standards, the Comprehensive Plan, and the Active Transportation Plan.

xiv. Proposed parks, trails, open spaces, and other amenities.

xv. Proposed public improvements.

xvi. Location and sizes of existing and proposed utilities.

xvii. Significant natural features, such as arroyos and 100-year floodplains.

xviii. All easements.

xix. Tabular Information:

(a) Land uses of each parcel and phase (if applicable).

(b) Total acreage of the **Error! Reference source not found.** and acreage for each land use for the development and by phase (if applicable).

(c) Number of dwelling units and density for the development and by phase (if applicable).

(d) Total square footage of nonresidential uses for the development and by phase (if applicable).

(e) Total acreage for open space, private and public facilities, and right-of-way for the development and by phase (if applicable).

(f) Maximum height of proposed structures for each parcel and phase (if applicable).

xx. Phasing plan. If developing in phases, a phasing plan shall identify the phase in which (or date by which) public facilities (e.g., trails, amenity centers, recreational facilities, other improvements) will be provided.

xxi. Approval block signifying the final approved Concept Plan to be signed by the Community Development Director upon approval by the City Council and resolution of all outstanding staff comments.

g. Other Impact Studies, if determined by the Planning & Zoning Commission as necessary to present clear and compelling evidence regarding development impacts, are to be submitted prior to City Council consideration:

i. Impacts on any public facilities outside the **Error! Reference source not found.** area. Impact data shall include expected population generated by the proposed development, identification of public facilities (e.g., utilities, parks, that are anticipated for use by said population and level of capacity of said utilized public facilities).

ii. Impacts on air quality, specifically solid particulates known as PM10. Impact data shall include identification of proposed uses that generate air pollution substances into the environment and the projected impact.

iii. Impacts on views and noise to adjacent property. Impact data shall include identification of proposed uses that generate excessive noise, anticipated maximum height for proposed structures, identification of existing physical features that are viewed from the PUD and adjacent properties, and how these views will be altered by the PUD. Proposals to mitigate impacts shall be provided.

iv. Geological and Soils Hazards. Report on the Geologic and Soils Hazards in relation to slope conditions, drainage problems and suitability for septic system use, if applicable, as identified by the Soil Survey of Doña Ana County Area, New Mexico. This report shall also include either an aerial photograph or a map with existing contours at an appropriate interval to establish accurate ground contour of the **Error! Reference source not found.** area.

e) Step 3: Platting

If platting is required, all plats and plans must be submitted and approved in accordance with **Sec. 37-2. Subdivision Procedures**.

f) Step 4: Site Plan

i) Site Plan Purpose

The purpose of a Site Plan is to identify the detailed site layout and features for a PUD development or phase of PUD development.

ii) Site Plan Application Submittal and Review

a. Upon approval of the Concept Plan and completion of any required platting process, the applicant may submit a Site Plan in accordance with **B. Site Plans** for part or all of the land area covered by a Concept Plan for Community Development Director consideration. The Director may defer the Site Plan to the Planning & Zoning Commission and City Council for any reason.

b. Alternatively, an applicant may choose to submit a Site Plan along with the Concept Plan, which may be approved by the Planning & Zoning Commission and City Council.

iii) Site Plan Deviations from an Approved Concept Plan

Any substantial change proposed on a Site Plan that would affect the approved Concept Plan shall require re-submittal of the Concept Plan in its entirety. Minor changes are those changes that are not substantial and do not affect the overall intent of the Concept Plan, which may be approved by the Community Development Director; however, the Director may determine that any proposed change should be heard at a public meeting before the Planning & Zoning Commission and City Council. Substantial changes to the Concept Plan are subject to the same requirements as the original application. Substantial changes shall include but are not limited to:

a. Any change that would increase the intensity of the land uses;

b. A 15 percent cumulative increase or decrease in residential density;

c. A 15 percent cumulative increase or decrease in nonresidential square footage;

d. Any change in private incentives and public benefits;

e. Increase in size of property;

f. Any reduction in screening, screening buffers, and setbacks at the PUD property line;

g. A 15 percent cumulative increase in the buildable area for structures, including signs; and

h. A 15 percent cumulative reduction in open space.

iv) Approval Criteria

No findings are required except that the Site Plan conforms to the Concept Plan and all standards established by this Development Code and the identified base zoning district unless specifically indicated otherwise within the **Error! Reference source not found.**.

## E. Building Permits and Certificates of Occupancy

1. No permit for the construction of a new building, fence, wall, sign, or any other structure that requires a Building Permit shall be issued until the lot is part of a plat of record, approved by the City and filed with the County. This requirement does not apply to additions or repairs.
2. No building or premises hereafter erected or structurally altered shall be used, occupied, or changed in use or occupant until a Certificate of Occupancy has been issued by the Building Official, stating that the building or

proposed use of the building/premises complies with the City's adopted construction and safety codes and the provisions of this Development Code.

## F. Zoning Variances




**Figure 36-5-5. Zoning Variance Process Summary**

1. General Provisions

   a) In accordance with NMSA 3-21-8 and this section, the Planning & Zoning Commission may authorize a Zoning Variance from this **Chapter 36. Zoning Regulations** as outlined herein.

   b) Zoning Variances may only be used to waive or modify dimensional requirements, such as setbacks, building heights, or lot coverage. Zoning Variances shall not modify permitted uses or use-based standards.

   c) The applicant bears the burden of proof in establishing the facts that may justify a Zoning Variance.

   d) The granting of a Zoning Variance does not establish precedence for future determinations.

2. Review Procedures

   The procedures for such approval are as follows:

   a) Any proposed Zoning Variance request shall first be reviewed at a pre-application meeting scheduled and held by the Community Development Department. See **Sec. 34-3.B. Pre-Application Meeting** for more information.

   b) Applications shall be submitted to the Community Development Director. The application is subject to a determination of completeness by City Staff (see **Sec. 34-3.C.4. Complete Application** for more information).

   c) The Community Development Director shall review the submittal and prepare a written staff report with recommendations, which shall be provided to the Planning & Zoning Commission along with the application. The report shall recommend that the application be approved, conditionally approved, disapproved, or postponed based on the criteria outlined below.

   d) A public meeting before the Planning & Zoning Commission is required. The Planning & Zoning Commission shall approve, conditionally approve, disapprove, or postpone the request.

   e) Approval Criteria

      i) The Planning & Zoning Commission shall consider the following criteria:

         a. The proposed Zoning Variance is not contrary to the public interest;

         b. Where, owing to special conditions, a literal enforcement of the zoning ordinance will result in unnecessary hardship;

         c. That the spirit of the zoning regulations is observed and substantial justice done; and

         d. That the goals and policies of the Comprehensive Plan are implemented.

      ii) No Zoning Variance may be granted that results in undue hardship upon another parcel of land.

      iii) A Zoning Variance shall not be granted to relieve a self-created hardship.

      iv) The relief granted shall be to the minimum degree required to alleviate such hardship.

      v) The Planning & Zoning Commission shall not grant a Zoning Variance unless it finds, based upon evidence, that each of the conditions and standards in this section have been met.

   f) The Planning & Zoning Commission may impose such conditions, limitations, and safeguards as it deems appropriate upon the granting of any Zoning Variance. Violation of any such condition, limitation or safeguard shall constitute a violation of this Development Code.

## G. Nonconformities

1. Purpose

   The purpose of this section is to regulate land uses, lots, structures, and site features that were legally established at the time of their creation but that have been made nonconforming due to a change in the City's regulatory environment (i.e., legal nonconforming). The regulations herein are intended to reduce or eliminate these nonconformities over time.

2. Applicability

   These regulations apply to any land use, lot, structure, and/or site feature that was legally established but has since become nonconforming to the regulations in place.

3. Illegal Nonconformities

   Any land use, lot, structure, and/or site feature that was established in violation of the regulations at the time is prohibited and shall be considered a violation of this Development Code. The provisions included in this section do not apply to illegal nonconformities.

4. General Provisions

   a) Authority to Continue

      Any nonconformity that legally existed on or before the Effective Date of this Development Code that becomes nonconforming upon the adoption of this Development Code or past or future amendments may be continued, subject to the regulations of this section.

   b) Repairs and Maintenance

      Nothing in this Development Code shall prohibit the routine operation and maintenance of legal nonconformities in such a manner as to not exacerbate any existing nonconformity.

   c) Change in Ownership or Tenancy

      Nonconforming status runs with the land and is not affected by changes in tenancy, ownership, or management.

   d) Determination of Legal Nonconforming Status

      The burden of proving that a nonconformity legally exists is the responsibility of the subject owner. The Community Development Director is authorized to determine whether reliable evidence of nonconforming status has been provided by the subject owner. Resources for such evidence include but are not limited to recorded plats, aerial photography, or utility billing records.

   e) Nonconformity Legalization

      The Planning & Zoning Commission may use the Zoning Variance process to bring any nonconformity into compliance, subject to the requirements of **F. Zoning Variances**.

5. Nonconforming Lots

   A nonconforming lot is a lot that does not meet the current dimensional requirements established in **Sec. 36-2. Zoning Districts**. Any platted lot is deemed a conforming lot. Any variations to the dimensional requirements may be modified through the Flexible Development Standards.

6. Nonconforming Uses

   a) A nonconforming use is a land use that is not permitted in the zoning district in which it is located, or that does not meet the use-based standards outlined in **Sec. 36-3.B. Use Classifications and Use-Based Standards**.

   b) If a nonconforming use is discontinued for a period of at least 24 months, the use shall not resume except in full conformance with this Development Code. For the purpose of this paragraph, to "discontinue" shall mean to intentionally terminate operations of the nonconforming use.

c) Any nonconforming use that does not involve a permanent type of structure or operation that is moved from the premises shall be considered to have been discontinued, regardless of intent.

d) A nonconforming use shall not be expanded, except that the Community Development Director may authorize the expansion of a nonconforming use within an existing structure.

7. Nonconforming Structures

a) A nonconforming structure is a building or other construction that does not meet the building height, setbacks, design, or other structural requirements.

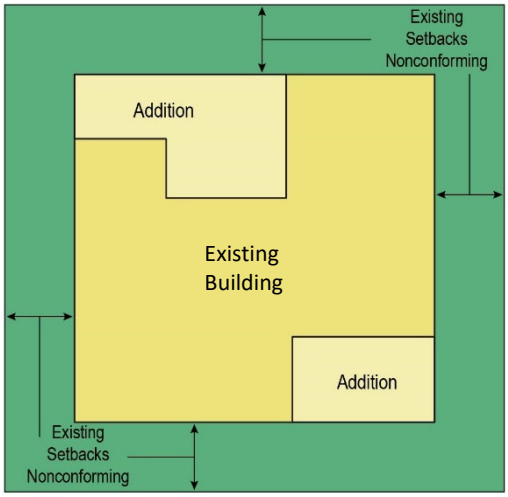
b) A structure or portion thereof may be altered to decrease its nonconformity as determined by the Community Development Director.

i) A mobile home or recreational vehicle (RV) used as a residence may be replaced if the unit is being replaced by a manufactured house, site-built house, or safer mobile home. If the replacement residence is a mobile home, for safety reasons, the replacement mobile home shall have accessible bedroom windows, the appropriate number of properly located and working smoke detectors, and an effective residential fire extinguisher. Furthermore, the replacement dwelling unit shall not be located on the property to create a nonconformity that did not previously exist.

c) A nonconforming structure may be expanded; however, the expansion must conform to the Development Code standards in place at that time and shall not result in increased or additional nonconformities.

i) A building with nonconforming setbacks shall be permitted additions within the extension of existing building lines. Such additions may not be larger than 50 percent of the building. See **Figure 36-5-6. Nonconforming Setbacks and Additions**.

**Figure 36-5-6. Nonconforming Setbacks and Additions**




d) Reconstruction of nonconforming structures or portions amounting to less than 50 percent of the existing square footage is permitted if the nonconformity is not enlarged in volume, area, or footprint.

e) Voluntary removal or destruction of a nonconforming structure or portion amounting to 50 percent or more of the existing square footage shall require either complete removal of the structure or its reconstruction in conformance with existing regulations.

f) Involuntary damage to or destruction of a nonconforming structure (e.g., fire, winds, or other calamity) may be rebuilt, reconstructed, or restored on the same footprint of the original structure plus any addition or expansion that is allowed by and conforming to the applicable zoning district. Such reconstruction is permitted as long as it begins within 24 months of the loss and complies with all other applicable zoning, development, and building codes.

g) A nonconforming structure may be moved to another location on the lot, provided that the moving will make it nonconforming to an equal or a lesser extent. A nonconforming structure shall not be moved to an off-site location unless the nonconformity is eliminated through the relocation.

8. Nonconforming Change in Land Use

a) Change in land use is defined as an increase or decrease in the intensity of land use. Intensity is determined by the number of car parking stalls required for a particular use as found in section 36-3. A nonconforming use may be changed to a less restrictive conforming use, i.e., a use that is allowed in the zoning district and that requires fewer parking stalls. A nonconforming use may be changed to a more restrictive conforming use, i.e.,

a use that is allowed in the zoning district and that requires more parking stalls, only if the additional parking stalls are provided along with the necessary drainage and landscaping.

# Chapter 37. Subdivision Regulations

## Sec. 37-1. General Provisions

### A. Title

This chapter shall be known and shall be cited as the "Subdivision Regulations" of the City of Las Cruces, New Mexico.

### B. Purpose

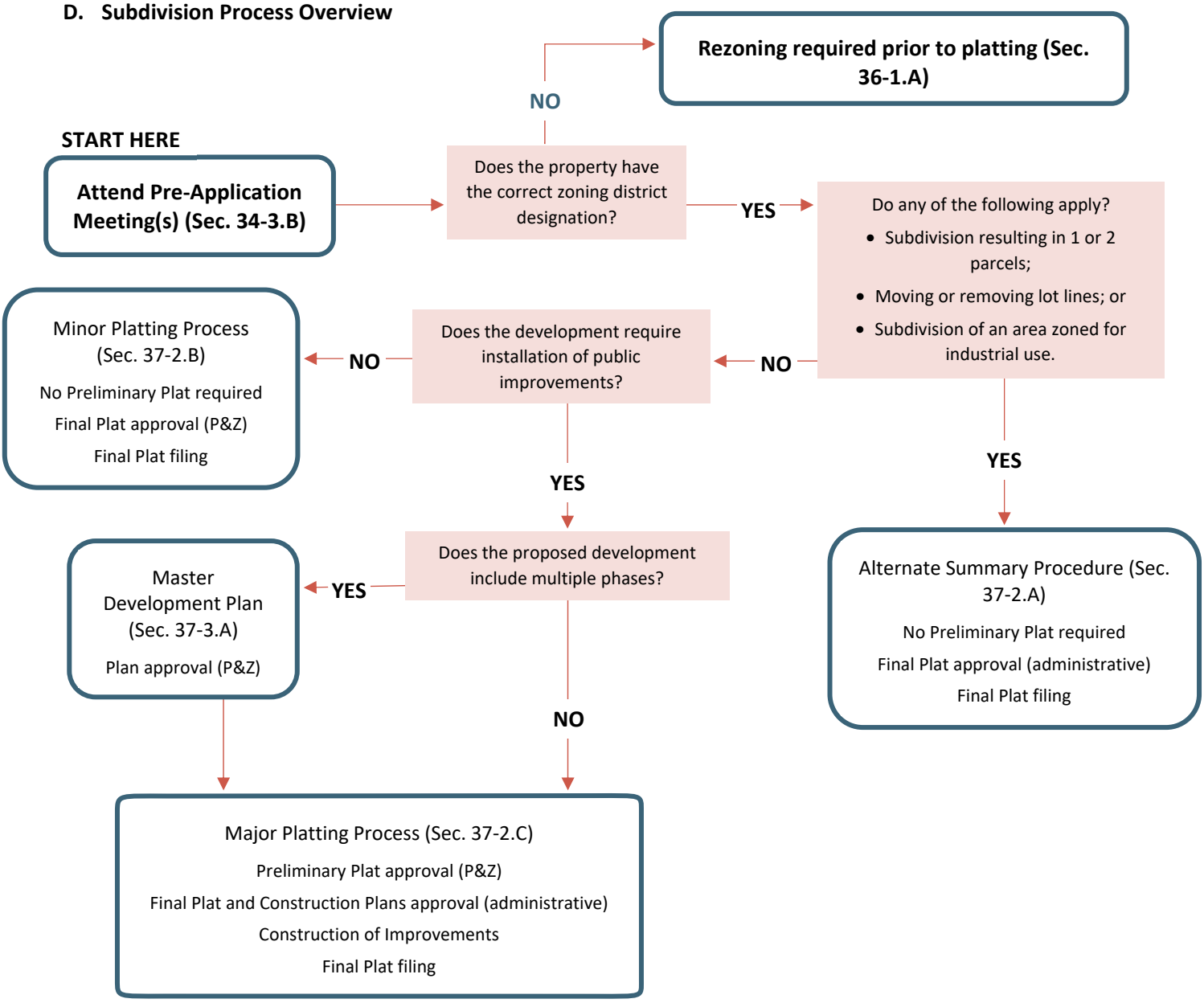
The purpose of this section is to promote the health, safety, convenience, and general welfare of the residents of the City through the implementation of a readable and understandable set of subdivision regulations outlining the processing of subdivision applications. More specifically, provisions of this section are designed to achieve the following objectives in newly subdivided areas:

1. Ensure orderly, efficient, and integrated growth and development within the City pursuant to guidelines established by the elements of the Comprehensive Plan and all other applicable City policies, rules, and regulations;
2. Promote proper street location, width, and design to facilitate multi-modal circulation and to minimize adverse growth impacts in accordance with the Comprehensive Plan, Active Transportation Plan, and City design standards;
3. Provide for proper right-of-way dedication and vacation practices;
4. Provide for the protection and preservation of natural resources and the promotion of natural beauty within the City;
5. Uphold the interests of public safety and quality of life;
6. Ensure that the proposed development is suitable for a given parcel of land, based on its location and environmental characteristics; and
7. Strive for a customer service approach to subdivision application processing.

### C. Applicability

1. This chapter applies to anyone wishing to:
   a) Divide a parcel of land into two or more parts; or
   b) Eliminate or adjust lot lines between two or more existing parcels; or
   c) Dedicate or vacate right-of-way; or
   d) Annex an unplatted parcel into the City limits.
2. Failure to comply with these regulations, including the transfer or sale of such land prior to approval and recording of a necessary plat with the County Clerk's Office, or the improper recording of a plat in violation of this chapter, shall be subject to the penalties outlined in **Sec. 34-1.H. Violations and Enforcement**.

## D. Subdivision Process Overview



## Sec. 37-2. Subdivision Procedures

### A. Alternate Summary Procedure

1. Purpose

   The purpose of the Alternate Summary Procedure is to allow an expedited administrative review of certain applications in accordance with NMSA 3-20-8.

2. Applicability

   a) The Community Development Director is hereby authorized to consider approval of the following:

      i) Subdivisions of not more than two parcels of land;

      ii) Resubdivisions where the combination or recombination of portions of previously platted lots does not increase the total number of lots; or

      iii) Subdivisions of two or more parcels of land in areas zoned for industrial use (i.e., the LI, Light Industrial District (Rural, Suburban, Urban) or the HI, Heavy Industrial District (Rural, Suburban, Urban)).

   b) Such submittals may include the dedication of public right-of-way but shall not include the vacation of dedicated rights-of-way.

   c) Submittals must be in substantial conformity with these Subdivision Regulations, demonstrating compliance with the Code and any approved Flexible Development Standards and Zoning Variances.

3. Submittal and Consideration

   a) If the Alternate Summary Process will be used more than once during the platting process, applicants must first submit a Master Development Plan for Planning & Zoning Commission approval (see **Sec. 37-3.A. Master Development Plan**).

   b) Applicants shall submit a Final Plat (see **Sec. 37-3.D. Final Plat**) for consideration and approval.

   c) Where two or more contiguous ASPs are located, public improvements must be installed prior to the filing of the Final Plat.

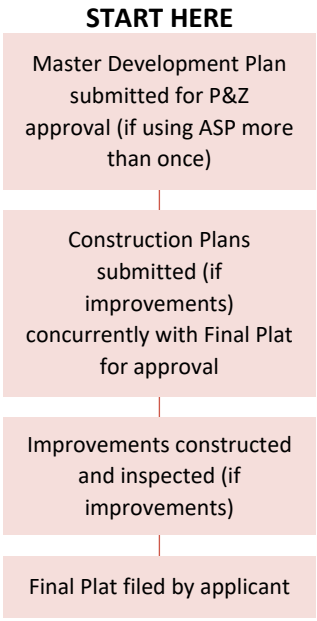
   d) If public improvements will be installed, the applicant shall submit Construction Plans concurrent with the submittal of a Final Plat. Upon approval of Construction Plans and the Final Plat, improvements shall be constructed and inspected.

      i) All improvements must be installed throughout the area included in the Master Development Plan prior to the filing of the Final Plat (unless Performance Security is provided for all remaining improvements in accordance with **Sec. 37-4.C.1.a**) or Substantial Completion of the development in accordance with **Sec. 37-4.D**).

   e) Approval by this Alternate Summary Procedure shall be endorsed on the plat or the instrument of conveyance.

   f) Any application without any formal submission within one year of the last submission will automatically expire.

**Figure 37-2-1. Alternate Summary Procedure Summary**



## B. Minor Platting Process

1. Purpose

   The purpose of the Minor Platting Process is to allow an expedited review of plats that do not require the installation of any public improvements.

2. Applicability

   The Minor Platting Process may be utilized for any plat that meets all of the following requirements:

   a) Does not meet the requirements for the Alternate Summary Procedure, and

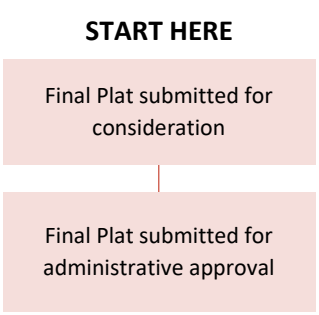
3. Does not require the installation of public improvements. Submittal and Consideration

   a) Applicants shall submit a Final Plat (see **Sec. 37-3.D. Final Plat**) for consideration and approval.

   b) Following approval of the Final Plat, the plat shall be filed and recorded with the County Clerk's Office.

   c) Any application without any formal submission within one year of the last submission will automatically expire.

**Figure 37-2-2. Minor Platting Process Summary**




## C. Major Platting Process

1. Purpose

   The purpose of the Major Platting Process is to accommodate more substantial subdivisions that include the installation of public improvements.

2. Applicability

   The Major Platting Process shall be used for any plat that does not meet the requirements for the Alternate Summary Procedure or the Minor Platting Process.

3. Submittal and Consideration

   a) The applicant shall submit a Preliminary Plat for consideration in accordance with **Sec. 37-3.B. Preliminary Plat**.

   b) Following Preliminary Plat approval, the applicant shall submit a Final Plat for consideration in accordance with **Sec. 37-3.D. Final Plat** and Construction Plans for consideration in accordance with **Sec. 37-3.C. Construction Plans**.

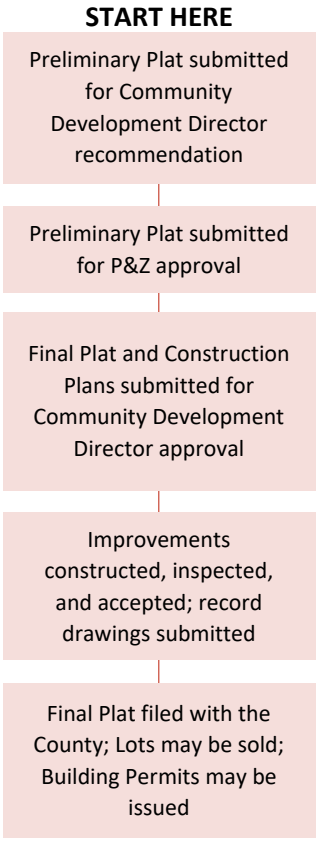
   c) Following approval of the Construction Plans, the applicant may begin site grading and installation of public improvements. Improvements shall be inspected in accordance with **Sec. 37-4.C. Installation and Acceptance of Public Improvements**.

   d) Following completion and inspection of the public improvements (or the provision of Performance Security and other requirements outlined in **Sec. 37-4.C.1.a)**), applicants may file the Final Plat and Building Permits may be issued.

      i) Final Plats may be filed and Building Permits may be issued prior to completion of all required improvements upon determination of substantial completion (see **Sec. 37-4.D. Substantial Completion**).

   e) Any application without any formal submission within one year of the last submission will automatically expire.

**Figure 37-2-3. Major Platting Process Summary**



## D. Plat Vacations

1. City Council may vote to vacate or partially vacate any filed plat upon the owners' request, in accordance with NMSA 3-20-12.
2. City Council may require that streets dedicated to the City in the original plat shall continue to be dedicated to the City; alternatively, the rights-of-way may be vacated as outlined in **E. Right-of-Way Abandonment**.

## E. Right-of-Way Abandonment

1. Initiation

   Right-of-way abandonments may be initiated by the adjacent property owner(s) or by the City Council if the Council determines that the right-of-way abandonment will not interfere with the interest of public health, safety, and welfare.

2. Submittal

   Right-of-way abandonments shall be prepared as a Final Plat for the right-of-way to be vacated and the affected adjacent lots in accordance with **Sec. 37-3.D. Final Plat**.

3. Division of the Land to be Abandoned

   Generally, the abandoned land will be divided in equal proportions and joined via plat with the adjacent properties. The Community Development Director shall review the plat that originally dedicated the right-of-way, access considerations, and adjacent property owners' requests to determine the final division.

4. Utility Easements

   If there are utility lines in rights-of-way that are to be abandoned, a utility easement will be required in lieu of right-of-way or relocation. In accordance with NMSA 3-20-13, the rights of any utility already existing shall not be affected by any full or partial abandonment.

5. Right-of-Way Abandonment Approval Process

   a) Administrative Review and Recommendation

      Right-of-way abandonment requests shall be reviewed and recommended by City Staff in accordance with **Sec. 37-3.D. Final Plat**.

   b) City Council Decision

      i) The Planning & Zoning Commission shall conduct a public meeting to review the abandonment request, recommendations from City Staff, the presentation from the petitioner or the petitioner's representative, and from any interested citizens. Action shall be in the form of approval, denial, or modification.

   c) Any necessary zoning map amendments (i.e., rezonings to align with new lot lines) shall be processed in conjunction with the abandonment.

6. Right-of-Way Dedications

   For standalone right-of-way dedications, see **Sec. 38-2.D. Private Streets**.

## Sec. 37-3. Plat and Plan Types

### A. Master Development Plan

1. Master Development Plan Purpose

   a) The purpose of the Master Development Plan process is to advance the goals and objectives of the City's Comprehensive Plan and to address a variety of environmental and social issues in an area being proposed for future development.

   b) A Master Development Plan is considered part of the planning process in which the proposal is viewed as a conceptual tool reflecting the ideas and thoughts for future development. Approved Master Development Plans shall be used as a general guide to land development with successive steps established for specific plans that shall be consistent with the adopted Master Development Plan.

   c) The Master Development Plan process is designed to guide future land development and transportation patterns.

2. Master Development Plan Required

   a) A Master Development Plan shall be required when any of the following criteria apply:

      i) A development is to be divided into various phases.

      ii) A request for annexation is made (see **Sec. 34-4. Annexation Process**).

      iii) When an applicant proposes to utilize the Alternate Summary Procedure more than once.

   b) A Master Development Plan may be omitted at the discretion of the Community Development Director for residential developments consisting of no more than two phases or forty or fewer acres.

   c) A Preliminary Plat may be submitted simultaneously with the Master Development Plan. A Final Plat shall not be submitted at the same time as the Master Development Plan or the Preliminary Plat.

   d) Said Master Development Plan shall be prepared by, and have the seal of, a Professional Engineer, Surveyor, or Registered Landscape Architect licensed in the State of New Mexico. The survey shall be prepared using the City Coordinate System or approved coordinate system as outlined in the Minimum Standards for Surveying in New Mexico.

   e) The Master Development Plan must include the entire planned development. Future phases for adjacent properties may be identified on the Master Development Plan.

3. Submittal of a Master Development Plan Application

   a) Following a pre-application meeting (**Sec. 34-3.B**) and any required early notification (**Sec. 34-3.H**), an applicant may submit the Master Development Plan application.

   b) The Master Development Plan and supplemental material shall be submitted to the Community Development Department no later than 45 calendar days prior to the day of the next regular meeting of the Planning & Zoning Commission for approval consideration.

   c) Applications shall be subject to a Determination of Completeness (**Sec. 34-3.C.4**).

   d) Any application without any formal submission within one year of the last submission will automatically expire.

4. Consideration of a Master Development Plan Application

   a) Administrative Review and Recommendation

      The **Error! Reference source not found.** shall review and recommend the application in accordance with **Sec. 34-3.C. Application Processing**.

   b) Planning & Zoning Commission Action

i) Agendas shall be posted and public notice provided prior to a public meeting before the Planning & Zoning Commission in accordance with **Sec. 34-3.G. Notice for a Public Meeting.**

ii) The Planning & Zoning Commission shall review the Master Development Plan, comments received from the **Error! Reference source not found.**, and presentations from the applicant or the applicant's representative and from any interested citizens.

iii) Action from the Planning & Zoning Commission shall be in the form of approval, conditional approval, postponement, or disapproval. Action from the Planning & Zoning Commission shall be recorded and published in accordance with **Sec. 34-3.D. Notice of Decision**.

iv) It is the requirement of the Planning & Zoning Commission that no Master Development Plan shall be reviewed unless either the applicant or the applicant's representative is present at the Planning & Zoning Commission public meeting. If neither party is present at the public meeting, the Master Development Plan will be postponed until the next regular Planning & Zoning Commission meeting.

c) Effect of Master Development Plan Approval

Upon approval of the Master Development Plan, the developer may submit to the Community Development Department any zoning applications, Preliminary Plats, Construction Plans, or Final Plats as necessary and applicable, that reflect the objectives of the approved Master Development Plan.

d) Effective Term and Expiration

i) The approval of the Master Development Plan shall be effective for a period of five years. The Master Development Plan shall expire five years from the date of approval unless one of the following applications has been approved, in accordance with the Master Development Plan for all or part of the master-planned area:

a. Preliminary Plat or Final Plat

b. Building Permit

c. Other development application

ii) Prior to the expiration date, the applicant may submit a request for extension of approval for up to one year, if desired. The request will require review by the Community Development Director based on current requirements and approval by the Planning & Zoning Commission. The Community Development Director or Planning & Zoning Commission may revise requirements based on projected needs or growth around the master-planned area, including infrastructure improvements related to signals, road network, streetlighting, etc.

iii) If no subdivision is approved and constructed within 10 years, then the subdivision will follow current standards for development.

e) Revisions to an Approved Master Development Plan

Any substantial change to the Master Development Plan will require resubmittal of the plan in its entirety and may trigger the need for a noticed area meeting at the discretion of the Community Development Director. Minor modifications shall be reviewed and considered by the Community Development Director. Substantial changes to the Master Development Plan shall require a new application in accordance with the standards at the time of application. Substantial changes shall include, but are not limited to:

i) Any major change in land use or use intensity (e.g., shifting or increasing drainage areas, adding a trail easement);

ii) Modifications of vehicular traffic circulation on public streets or roadway network changes;

iii) Increase in residential density; or

iv) Any change in the Master Development Plan that is determined by the Community Development Director to be substantial.

f) Appeals

Any appeals shall be processed in accordance with **Sec. 34-3.F. Appeals**.

5. Master Development Plan Submittal Requirements

The Master Development Plan shall be provided electronically in PDF format on 18-inch x 24-inch sized pages at a scale that legibly and adequately represents the information. If more than one sheet is used, all sheets must be indexed and contain an index map showing the relationship of the sheet to the whole. The following information shall be shown, unless specifically added or waived in accordance with **Sec. 34-3.C.3. Modification, Addition, or Waiver of Required Submittal Materials**.

| Master Development Plan Submittal Requirements |
|---|
| Application, signed by all property owners (including all parties having an equitable interest, trustees of an estate or all persons having a specific power of attorney) for the subject property, as recorded in the County Clerk's Office. |
| Application submittal fee. |
| Name of Master Development Plan. |
| Detailed area/vicinity map clearly showing the surrounding area and the proposal's relationship to existing road networks, and existing natural and/or constructed features that may impact the development or may be impacted by the development. Detail must be sufficient so that the subject property can be located in the field using the map. |
| A separate sheet identifying the limits of any adjacent property owned, legally controlled by, or of any development and/or financial interest to said subdivider. |
| North arrow, date of preparation, written and graphic standard engineering scale. |
| A general legal description that shall include approximate survey ties and approximate acreage |
| Name and address of the consultant preparing the Master Development Plan. |
| Name and address of the developer. |
| Boundary lines of the Master Development Plan, with approximate lengths of lines. |
| Proposed land use, by parcel or phase. Residential parcels shall provide gross density range. |
| Present zoning and proposed zoning (if applicable). |
| Contours—20-foot intervals. In instances whereby 20-foot intervals are not appropriate or applicable, contours may be provided at an appropriate interval that adequately presents the elevation differences of the land as determined by the Community Development Director. |
| Adjacent land use and zoning district identification. |
| Thoroughfare system:<br>• Proposed approximate location, length, width and point of intersection of all major transportation systems, which may include:<br>o Bikeways, trails, and any other transportation lines;<br>o Existing and proposed points of ingress and egress; |

| Master Development Plan Submittal Requirements |
|---|
| ○ Existing and proposed transit stops and transit service as per the RoadRUNNER Transit Plans; and<br>○ Location and phasing of signalized intersections.<br>• Identify existing and proposed classification of roads as per City design standards and based on the Comprehensive Plan and Active Transportation Plan. |
| Significant natural features, such as arroyos and approximate 100-year floodplains. |
| Easements, with all public easements labeled as “easement for public use.” |
| Tabular information.<br>• Land use of each parcel and phase (if applicable).<br>• Approximate acreage for each parcel and phase (if applicable).<br>• Number of residential dwelling units, minimum and maximum range, for the development and by phase (if applicable).<br>• Number of dwelling units by type.<br>• Dwelling Units Per Acre (**Error! Reference source not found.**) for each parcel and phase (if applicable).<br>• Approximate square footage of nonresidential uses for the development and by phase (if applicable)<br>• Approximate acreage proposed for open space, private and public facilities, and right-of-way for the development and by phase (if applicable).<br>• Approximate additional population to be generated by development, based on U.S. Census data.<br>• Approximate additional traffic estimated to be generated by development, utilizing ITE trip generation, latest edition, information, as amended. |
| Approval block signifying the final approved Master Development Plan to be signed by the Community Development Director upon approval by the Planning & Zoning Commission and compliance with all conditions. |
| Phasing plan. If developing in phases, a phasing plan shall identify the phase (or date by which) public facilities (e.g., trails, amenity centers, recreational facilities, other improvements) will be provided. |
| Conceptual utilities plan. The conceptual utilities plan shall contain enough information to provide a general outline of the proposed utility-routing plans for the development, including locations and sizes of existing and proposed utilities to be provided to the development to meet Las Cruces Utilities standards. |
| A CLOMR shall be submitted for review by the City and submitted to the Federal Emergency Management Agency and shall be approved by FEMA prior to master plan approval. A LOMR shall be submitted for review by the City and submitted to the Federal Emergency Management Agency and shall be approved by FEMA before acceptance by the City and before the issuance of any Certificate of Occupancy. (if applicable) |
| Conceptual drainage plan. The conceptual drainage plan shall contain enough information to provide a general understanding of how drainage issues will be addressed by the development. |
| Conceptual traffic-related improvements plan. The conceptual traffic related improvement plan shall contain enough information to provide a general understanding of how any increase in traffic on adjacent and internal public streets will be addressed by the development. |
| Copy of early notification letter (**Sec. 34-3.H. Early Notification and Meeting Requirements**) to noticed area and copy of minutes (summary or verbatim) from any subsequent noticed area meeting as may have been required. |

## B. Preliminary Plat

1. Preliminary Plat Purpose

   The purpose of the Preliminary Plat is to determine the general layout of the subdivision, the adequacy of public facilities needed to serve the intended development, and the overall compliance of the land division with applicable requirements of all adopted City plans, rules and regulations, and the development Master Development Plan, if applicable.

2. Preliminary Plat Required

   a) A Preliminary Plat conforming to this section shall be required for all subdivisions that follow the Major Platting Process (**Sec. 37-2.C**).

   b) A Preliminary Plat may be submitted simultaneously with a Master Development Plan.

   c) Requests for zoning variances or exceptions may be considered in conjunction with the plat request.

3. Submittal of a Preliminary Plat Application

   a) Following a pre-application meeting (**Sec. 34-3.B**) and any required early notification (**Sec. 34-3.H**), an applicant may submit the Preliminary Plat application.

   b) Applications shall be subject to a Determination of Completeness (**Sec. 34-3.C.4**).

   c) Any application without any formal submission within one year of the last submission will automatically expire.

4. Consideration of a Preliminary Plat Application

   a) Administrative Review and Recommendation

      The **Error! Reference source not found.** shall review and recommend the application in accordance with **Sec. 34-3.C. Application Processing**.

   b) Planning & Zoning Commission Action

      i) In accordance with NMSA 3-20-7, the Planning & Zoning Commission shall take action to either approve or disapprove the Preliminary Plat within 35 days of the plat's Official Submittal Date. Upon agreement that a delay is appropriate, the applicant may be required to submit a statement waiving the right to action within this timeframe.

      ii) Agendas shall be posted and public notice provided prior to a public meeting before the Planning & Zoning Commission in accordance with **Sec. 34-3.G. Notice for a Public Meeting**. In accordance with NMSA 3-20-7, an applicant may waive the requirement for a public meeting.

      iii) The Planning & Zoning Commission shall review the Preliminary Plat application, comments from the **Error! Reference source not found.**, the presentation from the subdivider or the subdivider's representative and from any interested citizens at a public meeting (if applicable).

      iv) Action from the Planning & Zoning Commission shall be recorded in the minutes of the meeting.

   c) Effect of Preliminary Plat Approval

      Approval of a Preliminary Plat shall not constitute approval of the Final Plat, but shall signify the general acceptability of the proposed subdivision. Preliminary Plat approval shall constitute permission to prepare and submit the Construction Plans for all improvements for the proposed subdivision. Construction Plans shall not be considered until Preliminary Plat approval is complete.

   d) Effective Term and Expiration

      i) Preliminary Plat approval shall be effective for no more than three years from the date of approval. If Construction Plans or a Final Plat application has not been submitted, the Preliminary Plat shall expire, and a new Preliminary Plat application must be submitted for approval.

ii) If the approved Preliminary Plat contains more than one phase, a Final Plat must be submitted within every three years thereafter (for a Preliminary Plat with more than one phase) until all phases are complete; otherwise, the Preliminary Plat shall expire.

iii) If an approved Final Plat is allowed to expire, the Preliminary Plat shall also expire.

iv) The applicant may submit a request for a one-year extension of approval, prior to the expiration date, if desired. The request will be reviewed by the Community Development Director. All plat extensions shall be automatically conditioned to require compliance with all City codes, regulations, and specifications in place at the time of development of the plat in question.

e) Deviations from an Approved Preliminary Plat

i) Any Final Plat submittal that results in a substantial change to an approved Preliminary Plat will require resubmittal of the Preliminary Plat in its entirety and may trigger the need for a noticed area meeting at the discretion of the Community Development Director. Minor modifications shall be considered by the Community Development Director.

ii) Substantial changes will be subject to a Planning & Zoning Commission public meeting, with the same requirements as an original application. Substantial changes shall include but are not limited to:

a. Any major change in land use or use intensity (e.g., shifting or increasing drainage areas, adding a trail easement);

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

c. Roadway network changes;

d. An anticipated increase in residential density;

e. Any change in the Preliminary Plat that is determined by the Community Development Director to be substantial.

f) Appeals

Any appeals shall be processed in accordance with **Sec. 34-3.F. Appeals**.

5. Preliminary Plat Submittal Requirements

The Preliminary Plat shall be provided electronically in PDF format on 18-inch x 24-inch sized pages at a scale that legibly and adequately represents the information. If more than one sheet is used, all sheets must be indexed and contain an index map showing the relationship of the sheet to the whole. The following information shall be shown, unless specifically added or waived in accordance with **Sec. 34-3.C.3. Modification, Addition, or Waiver of Required Submittal Materials**.

| Preliminary Plat Submittal Requirements |
|---|
| Application. |
| Application submittal fee. |
| Name of proposed subdivision. |
| Total acreage of subdivision, to nearest one-hundredth of an acre. |
| Date of preparation, north arrow, written and graphic standard engineering scale. |

| Preliminary Plat Submittal Requirements |
|---|
| Detailed area/vicinity map showing existing road networks to include a minimum of two major thoroughfares, outline of surrounding parcels, and existing natural and/or constructed features that may impact the development. Detail must be sufficient for the subject property to be located in the field using the map. |
| Name and address of subdivider. |
| Name and address of the person, corporation or organization preparing the Preliminary Plat. |
| An accurate and complete boundary survey of the land to be subdivided that meets or exceeds the Minimum Standards for Surveying NMAC 12.8.2.<br>• The name of the surveyor who performed and is responsible for the survey shall be provided.<br>• Boundary survey will include all monuments found accepted/rejected and monuments to be set.<br>• Boundary lines shall be given in bearings (degrees, minutes, and seconds).<br>• Distances will be shown in feet to the nearest hundredth.<br>• Curved boundary lines will provide sufficient data to be reestablished on the ground and will include central angle, radius, arc length, chord bearing and distance. |
| A statement of ownership, signed by the legal owner, and the equitable owner if applicable, on the final approved Preliminary Plat. |
| A separate sheet identifying the limits of any adjacent property owned, legally controlled by, or of any development and/or financial interest to said subdivider. |
| A separate sheet with the Intersection Site Design (ISD) study. ISD are not required on the final plat. |
| Zoning or proposed zoning shall be shown with boundaries given as streets, highways, or property lines. Special Use Permit or Planned Unit Development information and any Zoning Variance requests shall be included if applicable. |
| Uniquely identify each lot-by-lot number and block when applicable, tracts to be identified by alphabetically. Acreage for each lot and tract will be included. |
| Proposed lot lines and public rights-of-way lines; rights-of-way and street widths; rights-of-way for public services or utilities with identification of any limitations thereof. |
| When using a private water provider, provide a current engineered water system analysis, in accordance with LCFD guidelines. |
| Proof that all lots in any subdivision meet the requirements of **Chapter 36. Zoning Regulations** and that each lot shall be dimensioned in such a manner that setbacks, as required by the code, shall be met for any structure or building that may be on or will be constructed on the lot. No platted lot within a subdivision shall contain less square footage than that required by **Chapter 36. Zoning Regulations**. |
| Additional setbacks and any restrictions needed to accommodate required clear sight triangles at intersections; |
| Approximate locations, dimensions, areas, and purposes of tracts proposed to be reserved for the public; |
| Sites and approximate area(s) for any multi-family dwellings or nonresidential uses; |
| Existing conditions:<br>• Present site designation or subdivision name;<br>• Easements on-site: Location, width, and purpose of each, with all public easements labeled as “easement for public use”, and existing filed information of said easement;<br>• Public rights-of-way on and within 150 feet of the site: name, width, and classification of each, and filed information of public right-of-way, to include right-of-way document establishing width, owner, maintenance, etc.; |

| Preliminary Plat Submittal Requirements |
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| • Utilities on and adjacent to the site: Locations and size of each water line, sanitary and storm drain; locations of all irrigation channels and drains; locations of sewer mains, gas mains, gas lines, fire hydrants, electric and telephone poles, and street lights. If water mains and sewers are not on or adjacent to the tract, indicate the directions, distances, and sizes of the nearest lines;<br>• Existing topography.<br>  o For land with average slopes of less than five percent, show contour lines at intervals of not more than two feet;<br>  o For land with average slopes exceeding five percent, show contour lines at intervals of not more than five feet;<br>• Floodplain shall be clearly graphically delineated and noted;<br>• Existing storm drainage facilities on and adjacent to the site;<br>• Walkshed analysis of existing and proposed parks within a ¼-mile radius;<br>• Conditions on adjacent land significantly affecting design of the subdivision: approximate directions and gradients of ground slopes, character and location of development, and access points from adjacent points. |
| Approval block signifying the final approved Preliminary Plat, to be signed by the Community Development Director upon approval by the Planning & Zoning Commission and resolution of all outstanding staff comments; |
| Conceptual utilities plan. The conceptual utilities plan shall contain enough information to provide a general outline of the proposed utility-routing plans for the development, including locations and sizes of existing and proposed utilities to be provided to the development to meet Las Cruces Utilities standards. |
| A CLOMR shall be submitted for review by the City and submitted to the Federal Emergency Management Agency and shall be approved by FEMA prior to preliminary plat approval. If master planned provide approval documentation from the master plan. A LOMR shall be submitted for review by the City and submitted to the Federal Emergency Management Agency and shall be approved by FEMA before acceptance by the City and before the issuance of any Certificate of Occupancy. (if applicable) |
| ITE Trip Generation, pending TIA requirement. Refer to **Sec. 38-2.G. Traffic Impact Analysis**, ITE Traffic Impact Analysis guidelines, and other requirements as approved in consultation with the Public Works Director. For Preliminary Plats that are submitted without a preceding Master Development Plan, the applicant may opt to delay the Master TIA until after Preliminary Plat approval and before or with Construction Plan submittal; however, applicants should be aware that Preliminary Plat resubmittal may be required based on outcomes of the Master TIA. |
| Master Drainage Study. The purpose of the master drainage study is to identify major drainage ways, ponding areas, locations of culverts, bridges, open channels and drainage basins that are contributory to the proposed study area. In addition, the ability of downstream drainage facilities to pass the developed runoff from the proposed development must be analyzed in the master drainage study. The master drainage study shall contain a general outline of the proposed drainage routing plans for the development. The digital format of the report contents must be provided (e.g., AutoCAD, HEC-RAS, etc.).<br><br>For Preliminary Plats that are submitted without a preceding Master Development Plan, conditional approval with submission of the master drainage study can be given.<br><br>• The report shall include, but not be limited to, the following information and calculations:<br>  o Calculation for peak flow from all offsite tributary drainage areas.<br>  o Calculations for peak flow within the proposed development for all drainage basins larger than 20 acres.<br>  o Preliminary analysis of 100-year floodplain and major drainage ways.<br>  o Closed sub-basin analysis of 100-year floodplain and major drainage ways.<br>  o Discussion and analysis of downstream drainage facilities.<br>  o Discussion of anticipated drainage problems within the proposed development and possible solutions.<br>  o Report shall be typed on 8½-inch x 11-inch pages.<br>• Drawings for the master drainage study shall include, but not be limited to, the following:<br>  o Any and all floodplains and flood ways must be identified. A copy of applicable FEMA floodplain map is required indicating limits of current study.<br>  o Existing topography.<br>  – For land that slopes less than approximately five percent, show contour lines at intervals of not more than two feet.<br>  – For land that slopes more than five percent, show contour lines at intervals of not more than five feet.<br>  – Location and size of existing and proposed open channels, storm drains, retention/detention areas, and other drainage structures.<br>  – Identification of all drainage basins in the development. |

| Preliminary Plat Submittal Requirements |
|---|
| – Location of all streets in/adjacent to the proposed development.<br>– Identification of all drainage basins tributary to the proposed development.<br>– Basin maps may be scaled as small as 1 inch = 2,000 feet. Orthophoto maps at a scale of 1 inch = 200 feet are preferred. (Use the most appropriate scale available)<br>• Inlet and storm drain size calculations are not required with the master drainage study; therefore, the number of sub-basins analyzed in the report shall be held to the smallest practical amount. |

## C. Construction Plans

1. Construction Plans Purpose

   Construction Plans ensure that public improvements are installed to serve a development in accordance with all applicable regulations.

2. Construction Plans Required

   Construction Plans shall be required prior to the installation of public improvements (e.g., those improvements that are intended for dedication to the City) or private improvements as determined by the reviewing department.

3. Submittal of Construction Plans

   Construction Plans shall be submitted simultaneously with the Final Plat.

4. Consideration of Construction Plans

   a) The Community Development Department shall review the submittal for completeness in accordance with **Sec. 34-3.C.4. Complete Application**.

   b) Construction Plans and supplemental material will be processed by the applicable City departments and other governmental agencies for review, comments, and recommendations and forwarded to the Community Development Director.

   c) The Community Development Director shall forward any comments to the applicant for completion. Construction Plans and supplemental material that receive comments shall be resubmitted and reviewed until the provisions set forth in this section are met. At that time, the Construction Plans shall be approved, the construction approval block signed by the appropriate authorities and a construction permit issued (if the Final Plat has received approval from the appropriate authority).

   d) Whenever comments received by the City departments are in conflict, the Community Development Director will determine the appropriate procedure to be followed, utilizing the **Error! Reference source not found.** where appropriate, in order to resolve said conflict or disagreement.

   e) Appeals

      Any appeals shall be processed in accordance with **Sec. 34-3.F. Appeals**.

5. Engineer of Record Responsibility

   Review and approval of the construction plans does not preclude the Engineer of Record from responsibility for adherence to all applicable local, state and federal codes, regulations and requirements. Errors and omissions when discovered are the responsibility of the developer to resolve prior to final acceptance.

6. Construction Plans Submittal Requirements

   The Construction Plans shall be provided electronically in PDF format on 18-inch x 24-inch sized pages at a scale that legibly and adequately represents the information. If more than one sheet is used, all sheets must be indexed and contain an index map showing the relationship of the sheet to the whole. The following information shall be

shown, unless specifically added or waived in accordance with **Sec. 34-3.C.3. Modification, Addition, or Waiver of Required Submittal Materials**:

| Construction Plans Submittal Requirements |
|---|
| Application. |
| Application submittal fee. |
| A Final Plat conforming to **Sec. 37-3.D. Final Plat** (unless the installation of public improvements is delayed in accordance with **Sec. 37-4.C.1.a)**. |
| Updated clear sight triangle based on actual horizontal and vertical geometry of roadway design conforming to **Sec. 38-2.H. Clear Sight Triangle**. |
| Geotechnical soils investigation report. A complete geotechnical soils investigation and corresponding report may be required if the soil conditions are unknown, unreliable, or otherwise unusual. This requirement must be met when working in soils that are graded "expansive" or "very fine."<br><br>Any geotechnical soils investigation must include, at a minimum, representative sampling and testing for:<br><br>• Soil classification (NRCS);<br>• Sieve analysis;<br>• Structural design factors (R value and/or CBR value); and<br>• Other parameters may be required, including but not limited to:<br>  ○ Soil percolation tests (permeability);<br>  ○ Soil boring logs; and<br>  ○ Water table elevations. |
| Pavement design. A complete pavement design shall be based on a TIA where applicable and may be required for collectors, arterials, industrial parks/developments, or other areas subject to unusual traffic loadings. This requirement must be met whenever the soil to be worked in has been graded as "expansive" or "very fine." Pavement designs must include, at a minimum:<br><br>• Depth and type of subgrade preparation;<br>• Depth and type of base course needed; and<br>• Depth and type of asphalt pavement needed (Note: Asphalt mix formula to be required from contractors). |
| Final drainage study. The final drainage study shall be a detailed report and analysis of the drainage in the proposed development. It shall include detailed calculations for all potential runoff within the proposed development, and detailed calculations supporting the design of all drainage structures within the development. Construction plans for all drainage structures, and grading plans for all street grades where applicable, shall also be considered as part of the final drainage study. All drawings shall be formatted for 24-inch x 36-inch sheets.<br><br>Drawings and calculations comprising the final drainage study shall include, but not be limited to, the following information:<br><br>• Existing and proposed contours for proposed development. (Contour interval based on City Coordinate System or approved coordinate system as outlined in the Minimum Standards for Surveying in New Mexico – two-foot contour interval minimum). Proposed development with relatively flat surfaces (e.g., river valley subdivisions) shall contain spot elevations or one-foot contour intervals.<br>• Location(s) and elevation(s) of City or U.S.G.S benchmark(s). All elevations shall be based on City of Las Cruces Low Distortion Projection or a datum approved by the City Surveyor.<br>• Property lines.<br>• Streets, R.O.W. limits, names and grades.<br>• Existing drainage facilities and structures, including existing irrigation ditches, roadside ditches, drainage ways, gutter flow directions, and culverts. All pertinent information such as size, slope, elevations and locations of existing drainage ways shall be included in order to facilitate review and approval of drainage plans.<br>• Overall drainage area boundaries and drainage sub-area boundaries.<br>• Proposed types of curbs and gutters and gutter flow directions, including crosspans (intersections). |

| Construction Plans Submittal Requirements |
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| • Proposed storm drains, open drainage ways and right-of-way requirements, including proposed inlets, manholes, culverts, erosion control and energy dissipation devices, and any other appurtenances necessary for drainage control.<br>• Proposed inflow and outfall point(s) for runoff from the study area.<br>• Routing and accumulative flows at various critical points for the initial (10-year) and major (100-year) storm runoff.<br>• Minimum finished-floor elevation and ground-site elevations at all critical building locations for protection from major storm runoff.<br>• A 1-inch = 100-foot (preferable) scale map of the proposed development that shows the following information:<br>o Locations and sizes of all drainage structures;<br>o General flow patterns within the development;<br>o Minimum finished-floor or building-pad elevation of each building site;<br>o 100-year flood level in all streets in which the curb would be overtopped during the 100-year storm;<br>o All drainage basins within the development (Note: The number of basins should be limited to the smallest practical number.)<br>• All floodplains and arroyos within the proposed development. A copy of the current FEMA Floodplain Map is required showing project limits.<br>• Plan details. The following details shall be indicated on the drainage plans.<br>o Title block (lower right-hand corner preferred);<br>o Scale;<br>o Date and revisions;<br>o Name and address of professional engineer (and firm);<br>o Professional engineer's seal;<br>o Drawing number (sheet n/n);<br>o Legend;<br>o Approval block for appropriate reviewing departments and agencies. |
| Construction drawings. Construction drawings shall be prepared by a registered professional engineer licensed in the state. All drawings shall be formatted for 24-inch x 36-inch sheets and shall show the following information:<br><br>• Plan.<br>• North arrow;<br>• Property lines;<br>• Street names and easements (with locations and width dimensions);<br>• Existing utility lines, locations, and depths (or heights):<br>o Water;<br>o Gas;<br>o Storm drains;<br>o Irrigation canals;<br>o Sanitary sewers;<br>o All existing and proposed public and private utilities.<br>• Profile.<br>o Vertical and horizontal grids with scales identified;<br>o Ground surface grade (dashed line) and proposed grade (solid line);<br>o Existing utility lines where crossed;<br>o Benchmarks (N.G.S. Datum).<br>• Proposed construction.<br>o Pipes and culverts.<br>– Plan showing stationing;<br>– Profile showing elevations at even stationing (at 50-foot intervals)<br>– Size and length pipe, pipe composition (if applicable), and distances between manholes;<br>– Slope of pipe;<br>– Size and type of valves and fittings<br>– Radius of curved utility line<br>– Inlet and outlet details of all manholes and inlets, and connections to existing drainage systems (if applicable);<br>– Manhole details, including station numbers, and invert and top elevations;<br>– Typical bedding details for pipe for all bedding situations encountered on project;<br>o Open channels: |

| Construction Plans Submittal Requirements |
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| – Plan showing stationing;<br>– Profile indicating elevations of invert of channel, top of lining (if any), and adjacent ground grade;<br>– Profile showing elevations at even stationing (at 50-foot intervals);<br>– Typical cross sections;<br>– Construction notes;<br>– Lining details;<br>– Rip-rap and bedding details, with graduation requirements for same;<br>– Details of all inflow and outflow structures and drop structures (includes subgrade and foundation design details);<br>o Technical specifications shall be included on any drainage project permitted for construction within the City. Specifications shall meet the minimum guidelines for construction as outlined in the City standard specifications for roadway construction and design standards as amended.<br>o Parks, trails, other recreation improvements; streetscape and irrigation improvements; details and technical specifications related to these improvements. |
| A separate TIA permit is required and must be referenced. Final approved TIA report must be submitted prior to construction drawing submittal. Once approved the TIA shall be included as part of the construction drawing submittal with requirements as noted in **Sec. 38-2.G. Traffic Impact Analysis**, ITE guidelines, and approved in consultation with the Public Works Director. |
| Street plan and profiles. The plan and profiles shall be formatted for 24-inch x 36-inch sheets by a registered professional engineer, licensed in the state. The scale of all plans and profiles shall be 1:5 vertical, 1:50 horizontal unless a grid break would result. In such cases, the scale may be 1:10 vertical, 1:100 horizontal. A grid shall be required in all cases.<br>• Plan:<br>o Title block (lower right-hand corner preferred);<br>o Horizontal/vertical scale;<br>o Date and revisions;<br>o Name of professional engineer (and firm);<br>o Professional engineer's seal;<br>o Drawing number (sheet n/n);<br>o Legend;<br>o Construction approval block for appropriate reviewing departments and agencies;<br>o Street name;<br>o North arrow;<br>o Match lines with stationing and "see sheets" called out;<br>o Limits of construction;<br>o Centerline stationing;<br>o Stations at street intersections, curb returns, and property lines;<br>o Sizes and locations of all utilities (existing and proposed) (stub-outs not required);<br>o Rights-of-way widths;<br>o Adjacent block and lot numbers;<br>o Fire hydrant locations;<br>o Water and gas lines and valve locations, sizes, materials, and radius for curved lines, with all fittings (e.g., elbows, caps) called out;<br>o Sidewalk and wheelchair ramp locations;<br>o Curve centerline data;<br>o Proposed street lighting system, signage, and markings;<br>o Stationing and locations or crown transition;<br>o Back-of-curb radius (P.C., P.T., and midpoint stations), or sidewalk if no curbing is required, if applicable;<br>o Curb/gutter locations, if applicable;<br>o Top-of-curb elevations, or of sidewalk if no curbing is required, and stations at each front lot corner;<br>o Drainage flow arrows at crosspans and nontypical intersections;<br>o Driveway locations and stations (if applicable);<br>o Proposed top-of-pavement spot elevations at and across from all intersections (at flowline extensions);<br>o A local benchmark based on N.G.S. datum, with description, location and elevation;<br>o Sewer lines with flow directions and manhole locations, sewer line size, materials, manhole numbers, and radius for curved lines;<br>o "No parking" sign locations (if applicable); and |

| Construction Plans Submittal Requirements |
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| ○ Bike lane stripes, bike lane symbols, buffered bike lanes, protected bike lanes, bike lane or share the road signs, and bike sharrow lane symbols (if applicable).<br>• Profiles:<br>○ Proposed and existing grades 100 feet beyond limits of construction;<br>○ Even stationing (at 50-foot intervals) and elevations on all profiles of top-of-curb, right and left, street centerline required if in a nontypical section;<br>○ Stationing and elevation of the vertical point of intersection on all vertical curves, including PVT, PVI, PVC, and K value;<br>○ Top-of-curb elevations (or top-of-sidewalk elevations if no curbing is required at each lot corner);<br>○ Sanitary and storm sewer pipe invert elevations;<br>○ Slopes and lengths of sewer lines;<br>○ Stationing, size, and material of manholes; elevation for manhole rim, invert in and invert out;<br>○ Water and gas lines shown on profile with depths per Las Cruces Utilities standards and any necessary line lowering;<br>○ Limits of construction; and<br>○ Grid at scale of 1:5 Vertical and 1:50 horizontal; scale can be 1:10 vertical and 1:100 horizontal if size will require a page break. |
| Grading plans. The plans shall be prepared by a registered professional engineer licensed in the state. All grading, including lot grading, shall be done at time of roadway construction and to be maintained by subdivider. The grading plans shall be provided separately from the utility master plan. The following information shall be required:<br>• Street names;<br>• Block and lot numbers;<br>• North arrow;<br>• Written and graphic standard engineering scales;<br>• Existing contours based on project "as-builts," not plans, at 2-foot intervals (100 feet beyond project boundary if adjacent land is undeveloped and the property line of the adjacent land is developed). Proposed development with relatively flat surfaces (e.g., river valley subdivisions) shall provide spot elevations, or one-foot contour intervals;<br>• Retaining wall locations (and note if walls will be built at time of roadway construction);<br>• Top-of-curb elevations, or sidewalk if no curbing is required at each lot corner<br>• Pad elevations or finished floor elevations (for each lot);<br>• Spot elevations showing high points and low points or a typical lot detail if the proposed development has a relatively flat surface (e.g., River Valley subdivision);<br>• Pond elevations: Top, bottom and dimension from property lines (if applicable);<br>• Barrow ditch elevations (if applicable);<br>• Drainage channel elevations (if applicable);<br>• Drainage flow arrows (and note if roof area will drain to ponding area);<br>• Retention/detention, basin, location and elevation;<br>• A project benchmark based on N.G.S. datum with description, location, and elevation;<br>• General notes for grading and construction, etc.;<br>• Off-site grading or slope grading limits (if applicable);<br>• All grading must comply with Chapter 70 Grading, Excavations, and Fills of the International Building Code. Alternative design may only be approved by the Public Works Director.<br>○ If grading will be performed on the land of an adjacent property owner(s), or construction vehicles may need to access the property, a copy of a letter must be provided to the City, signed by the adjacent property owner(s), stating that they understand the nature of the work and do not oppose the modification to their property and/or that they will allow temporary access to their property by the contractor;<br>• Existing utilities. |
| Utility master plan. The Utility master plan shall include all phases of development and be prepared by a registered professional engineer, licensed in the state. If utilities are not in the standard location, i.e., street right-of-way, then preapproval is required by the utilities department. The utility master plan shall be provided separately from the grading plans. The following information shall be required:<br>• Lot and block numbers;<br>• Street names;<br>• North arrow, written and graphic standard engineering scale;<br>• Utility stub-outs; |

| Construction Plans Submittal Requirements |
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| • Street light pad and conduit locations;<br>• Wire utility boxes;<br>• Fire hydrant locations;<br>• Water and gas valve locations and fittings;<br>• A local benchmark based on N.G.S. datum, with description, location, and elevation; and<br>• Sewer lines with flow directions and manhole locations. |
| Detail sheet, to be prepared by a registered professional engineer licensed in the state. The following information shall be required, if applicable:<br><br>• Roadway construction notes and general notes;<br>• Utility construction notes;<br>• Manhole details;<br>• Radius of curved utility line;<br>• Typical utility stub-out to lot detail;<br>• Street intersection detail (if applicable);<br>• Typical street cross-section(s) (including paving composition);<br>• Curb and gutter detail;<br>• Wheelchair ramp detail;<br>• Retaining wall detail, cut-off wall detail, and all fencing details (a separate permit will be required if applicable);<br>• Drainage structure details;<br>• Light base details;<br>• Typical lot layout;<br>• Foundation detail for signage;<br>• Signage face detail;<br>• Street lighting system details following the Approved Product List;<br>• Any other construction detail that may be needed for clarification purposes; and<br>• Water and gas valve and line detail. |

## D. Final Plat

1. Final Plat Purpose

   The Final Plat is the subdivision instrument that is prepared for recording in the County Clerk's Office. The Final Plat process ensures that the recordable plat is in complete compliance with plans approved earlier in the Preliminary Plat process.

2. Replats

   A replat (i.e., resubdivision) that makes changes to a previously approved Final Plat requires the filing of a new Final Plat. A replat follows the same procedures outlined in this **D. Final Plat**.

3. Final Plat Required

   a) A Final Plat shall not be submitted until Preliminary Plat approval, if applicable, is complete.

   b) Said Final Plat shall be prepared by, and have the seal of, a professional surveyor. The survey shall be prepared using the City Coordinate System or approved coordinate system as outlined in the Minimum Standards for Surveying in New Mexico.

4. Submittal of a Final Plat Application

   a) Following a pre-application meeting (**Sec. 34-3.B**), any required early notification (**Sec. 34-3.H**), and any required Preliminary Plat approval, an applicant may submit the Final Plat application in conjunction with Construction Plans (if applicable).

   b) Applications shall be subject to a Determination of Completeness as outlined in **Sec. 34-3.C.4. Complete Application**.

5. Consideration of a Final Plat Application

   a) In accordance with NMSA 3-20-7, the City shall take action to either approve or disapprove the Final Plat within 35 days of the plat's Official Submittal Date. Upon agreement that a delay is appropriate, the applicant may be required to submit a statement waiving the right to action within this timeframe.

   b) Administrative Approval of Final Plats

      i) For Final Plats following an approved Preliminary Plat, the Community Development Director shall review and approve the application in accordance with **Sec. 34-3.C. Application Processing**.

      ii) For Final Plats that do not follow an approved Preliminary Plat, the **Error! Reference source not found.** shall provide a recommendation and the Planning & Zoning Commission shall approve the application in accordance with **Sec. 34-3.C. Application Processing**.

   c) Effect of Final Plat Approval

      The Final Plat shall not be filed until all improvements have been constructed, inspected, and ready for approval and maintenance acceptance by the City. Upon approval and filing of the Final Plat, the applicant may sell lots and apply for Building Permits.

      i) If the construction of public improvements will be delayed in accordance with **Sec. 37-4.C.1.a)**, Performance Security shall be submitted with the Final Plat and Construction Plans.

      ii) If the construction of public improvements is substantially complete, the City shall authorize the applicant to file the Final Plat and may issue building permits. See **Sec. 37-4.D. Substantial Completion** for more information.

   d) Revisions to an Approved Final Plat

      i) No changes, revisions, erasures, or modifications shall be made on the Final Plat.

      ii) No Final Plat shall be filed and recorded prior to the satisfaction of all requirements and conditions.

e) Expiration

If the applicant has not filed a Final Plat within three years of the date of approval, the Final Plat shall expire.

f) Appeals

Any appeals shall be processed in accordance with **Sec. 34-3.F. Appeals**.

6. Final Plat Submittal Requirements

The Final Plat shall be provided electronically in PDF format on 18-inch x 24-inch sized pages at a scale that legibly and adequately represents the information. Once approved, the Final Plat shall be prepared for filing on 18-inch x 24-inch Mylar sheets at a scale that adequately represents the information. Copies provided shall be legible. If more than one sheet is used, all sheets must be indexed and contain an index map showing the relationship of the sheet to the whole. The following materials shall be submitted for a Final Plat unless specifically added or waived in accordance with **Sec. 34-3.C.3. Modification, Addition, or Waiver of Required Submittal Materials**.

| **Final Plat Submittal Requirements** |
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| Application. |
| Application submittal fee. |
| Name of subdivision. |
| Total acreage of subdivision to nearest one-hundredth of an acre. |
| Date of preparation, north arrow, written and graphic standard engineering scale. |
| Detailed area/vicinity map showing existing road networks to include a minimum of two major thoroughfares, outline of surrounding parcels and existing natural and/or constructed features that may impact the development. Detail must be sufficient for the subject property to be located in the field using the map. |
| A separate sheet identifying any adjacent property owned, legally controlled by, or of any development and/or financial interest to said subdivider. |
| Signed statements by the subdivider dedicating public rights-of-way and granting all required easements for public use. Also include a statement that the subdivision is planned with the free consent of and in accordance with the desire of the undersigned owner of the land, acknowledged in a manner required for acknowledgment of deeds. For consistency on all plats, the dedication statement shall read as follows:<br><br>DEDICATION<br><br>THE TRACT HEREON IS TO BE KNOWN AS _____ SUBDIVISION.<br><br>ALL RIGHTS OF WAY AND PUBLIC AREAS SHOWN HEREON ARE DEDICATED TO THE CITY OF LAS CRUCES. UTILITY EASEMENTS ARE GRANTED FOR THE USE OF THE UTILITY COMPANIES THAT ARE SIGNATORY TO THIS PLAT AND TO THE CITY OF LAS CRUCES. ALL RULES AND REGULATIONS OF THE CITY OF LAS CRUCES AND SAID UTILITIES WILL APPLY TO THESE EASEMENTS. ALL OTHER EASEMENTS SHOWN HEREON ARE GRANTED FOR THE USE INDICATED. NO ENCROACHMENT THAT WILL INTERFERE WITH THE USE OF EASEMENTS AS SHOWN ON THIS PLAT IS ALLOWED.<br><br>THE SUBDIVISION HAS BEEN DEDICATED IN ACCORDANCE WITH THE WISHES OF THE UNDERSIGNED OWNER(S) OF THE LAND SHOWN HEREON. |
| Name and address of subdivider. |
| Name and address of the person, corporation or organization preparing the Final Plat. |

| Final Plat Submittal Requirements |
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| Certification block for Planning & Zoning Commission chair and secretary. |
| Certification block(s) by authorized representatives from respective utility companies (cable, telephone company and electric company, etc.). |
| Certification and seal by a Professional Surveyor in accordance with the laws of the state, certifying the accuracy of the survey and the plat, and that the surveyor prepared or supervised preparation of the plat. |
| An accurate and complete boundary survey of the land to be subdivided that meets or exceeds the Minimum Standards for Surveying NMAC 12.8.2.<br>• The name of the surveyor who performed the survey shall be provided.<br>• Boundary survey will include all monuments found accepted/rejected and set.<br>• Boundary lines shall be given in bearings (degrees, minutes, and seconds).<br>• Distances will be shown in feet to the nearest hundredth.<br>• Curved boundary lines will provide sufficient data to be reestablished on the ground and will include central angle, radius, arc length, chord bearing and distance. |
| Subdivision shall be tied to an existing established monument. Subdivision will use the City Coordinate System or approved coordinate system as outlined in the Minimum Standards for Surveying in New Mexico. |
| Bearings and lengths for all lot lines and rights-of-way lines existing or proposed. Lines to be eliminated shall be designated and identified by dashed lines. |
| Names of streets, rights-of-way widths of all streets, commercial alleys, green ways, bikeways, trails, and other transportation links shall be so designated. |
| Provide record information (book and page or plat) dedicating existing rights-of-way. |
| Number to identify each lot; Acreage of each lot; Letter to identify each block. |
| Location, dimensions, and purpose of all easements, existing or proposed, and any limitations thereof. For existing easements, provide recording information book and page. All easements shall indicate its purpose and intended user. Any easement dedicated to the City shall state “the easement is intended for public use and shall be dedicated to the City of Las Cruces upon the filing of this plat”. |
| Adjacent land ownership within 100 feet as of the date drafted for submittal. Note subdivision and/or owner’s names and filing information: book, page and date. |
| Outlots or tracts designated by letter, with disposition indicated in the Note section. Location of land intended to be converted or reserved for public use or reserved in the deeds for the use of all property owners in the proposed subdivision shall be so identified. The purpose of each outlot and the responsibility for maintenance of all tracts shall be noted. All outlot or tracts shall indicate its purpose and intended user. Any outlot or tract dedicated to the City shall state “the outlot or tract is intended for public use and shall be dedicated to the City of Las Cruces upon the filing of this plat”. |
| Floodplain shall be clearly graphically delineated and noted. |
| Necessary easements for EBID or community ditches in relation to irrigation. |
| Ponding icon. For lots utilizing on-lot ponding, an icon shall be placed on the lot in the approximate location of the proposed ponding area. A note referencing the ponding icon shall also be present on the plat and reflect the purpose and the lot owner’s responsibility for maintaining the ponding area. |

| Final Plat Submittal Requirements |
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| A note placed on the plat stating: "Subdivider responsible for utility stub-outs and for providing any and all easements necessary to provide utility service to lots contained herein." |
| Appropriate documentation shall be submitted to show proof of water service and approval of sewage disposal. (Applicable if the subdivision will not be utilizing City services.) |
| Address plat. The address plat shall be submitted as a PDF sized for 18-inch x 24-inch sheets at a scale that adequately represents the information. The following information shall be required:<br>• Title of subdivision;<br>• Approved lot layout;<br>• Lot and block numbers;<br>• Street name;<br>• Street address for each lot (Community Development Department will provide the addresses); and<br>• Neighborhood delivery and collection box unit location (NDCBU), if applicable. |
| A traverse closure sheet (computer printout) for the exterior boundaries of the entire tract and for each parcel within the tract, except any parcels that are true rectangles. |
| Approved Master Traffic Impact Analysis . Refer to **Sec. 38-2.G. Traffic Impact Analysis**, ITE Traffic Impact Analysis guidelines, and other requirements as approved in consultation with the Public Works Director. |
| Master Drainage Study (unless already provided with a Preliminary Plat). The purpose of the master drainage study is to identify major drainage ways, ponding areas, locations of culverts, bridges, open channels and drainage basins that are contributory to the proposed study area. In addition, the ability of downstream drainage facilities to pass the developed runoff from the proposed development must be analyzed in the master drainage study. The master drainage study shall contain a general outline of the proposed drainage routing plans for the development. The digital format of the report contents must be provided (e.g., AutoCAD, HEC-RAS, etc.).<br>• The report shall include, but not be limited to, the following information and calculations:<br>o Calculation for peak flow from all offsite tributary drainage areas.<br>o Calculations for peak flow within the proposed development for all drainage basins larger than 20 acres.<br>o Preliminary analysis of 100-year floodplain and major drainage ways.<br>o Closed sub-basin analysis of 100-year floodplain and major drainage ways.<br>o Discussion and analysis of downstream drainage facilities.<br>o Discussion of anticipated drainage problems within the proposed development and possible solutions.<br>o Report shall be typed on 8½-inch x 11-inch pages.<br>• Drawings for the master drainage study shall include, but not be limited to, the following:<br>o Any and all floodplains and flood ways must be identified. A copy of applicable FEMA floodplain map is required indicating limits of current study.<br>o Existing topography.<br>– For land that slopes less than approximately five percent, show contour lines at intervals of not more than two feet.<br>– For land that slopes more than five percent, show contour lines at intervals of not more than five feet.<br>– Location and size of existing and proposed open channels, storm drains, retention/detention areas, and other drainage structures.<br>– Identification of all drainage basins in the development.<br>– Location of all streets in/adjacent to the proposed development.<br>– Identification of all drainage basins tributary to the proposed development.<br>– Basin maps may be scaled as small as 1 inch = 2,000 feet. Orthophoto maps at a scale of 1 inch = 200 feet are preferred. (Use the most appropriate scale available)<br>Inlet and storm drain size calculations are not required with the master drainage study; therefore, the number of sub-basins analyzed in the report shall be held to the smallest practical amount. |

## Sec. 37-4. Adequate Public Facilities

### A. Subdivider Responsibility

1. The subdivider of any approved subdivision shall be responsible for all on- and off-site infrastructure and utility improvements necessary for filing the Final Plat.
2. The subdivider shall be responsible for any necessary off-site utility extensions required to provide service, unless such extensions are already part of the utility capital improvement program.

### B. Adequate Public Improvements Required

1. Land proposed for development must be adequately served by essential public improvements and services, including but not limited to water, wastewater, roadway facilities (e.g., street lighting, traffic signals, parking, and traffic control devices), bicycle, pedestrian, drainage, and park facilities. Requirements for such facilities are outlined in **Chapter 38. Development Standards** and Volume I of the Code of Ordinances.
2. Land shall not be approved for platting or site development until adequate public improvements necessary to serve the development exist or provision has been made for the facilities.
3. A public improvement is considered sufficient when it is demonstrated to have available capacity to meet the demand generated by the proposed development, other adopted master plans for public facilities, and applicable capital improvement plans.

### C. Installation and Acceptance of Public Improvements

1. Public Improvements Required for Final Plat

   Public improvements shall be constructed, installed, inspected, and ready for approval and maintenance acceptance by the Public Works Department prior to the filing of an approved Final Plat.

   a) Exception: The Public Works Director may authorize a delay in the installation of public improvements for up to 24 months following Final Plat approval.

      i) A form of Performance Security and a bid from the contractor shall be filed with the City, along with a development agreement outlining the improvements to be completed, any cost sharing agreements (e.g., oversizing), and other terms as required by the Public Works Director.

         a. The amount of such Performance Security must cover 125 percent of the projected cost of all required improvements agreed to by the Public Works Director. The amount shall be based on the projected costs that the City – not a private developer – would incur at the time improvements are scheduled for completion.

      ii) Any of the following types of security shall be filed with the Community Development Director:

         a. Performance bond. A surety bond acceptable to the City to cover estimated costs of improvements.

         b. Escrow account. An account established with a financial institution in the amount of the projected costs of improvements.

         c. Irrevocable stand-by letter of credit. Irrevocable authority to draw a draft for the projected cost of improvements.

         d. Cashiers' check. An amount of security acceptable to the City to cover estimated costs of improvements.

         e. Any other form of security approved by the Community Development Director, Finance Director, and legal staff.

      iii) The City shall not issue any building permits within the subdivision until all improvements have been installed and inspected or are otherwise in compliance with **D. Substantial Completion**, unless Performance Security is provided.

iv) If the City determines that the subdivider will not construct any or all of the improvements in accordance with the specifications, the City may withdraw and employ from the deposit of collateral such funds as necessary to construct the improvements in accordance with the specifications.

2. Acceptance of Improvements

a) Following completion (or Substantial Completion in accordance with **Sec. 37-4.D** below) of all public improvements, the subdivider may request the City to conduct an inspection and consider acceptance of the improvements.

i) For acceptance of utility improvements, and prior to connection to the City's utility system, the subdivider shall submit utility Record Drawings for review and approval in accordance with the Public Works Department's and Utility Department's established record drawing submittal requirements.

ii) For acceptance of park improvements, the subdivider shall submit park construction document plans for review and approval by Parks & Recreation Department Director. Such plans shall be submitted to the Parks & Recreation Department through the Community Development Department.

b) The subdivider shall make a written request to the Community Development Director for final acceptance of all subdivision improvements. Along with the written request, the City shall require the submission of Record Drawings in accordance with **3. Record Drawings Submittal Requirements** and a detailed material listing. The City shall inspect said improvements to determine whether the infrastructure is acceptable and whether it conforms to the approved Final Plat and construction drawings.

c) The Community Development Director may formally accept said public improvements for City maintenance upon receipt of a written report of recommendation for acceptance and from the Public Works Director, Utilities Director, and Parks & Recreation Director that all applicable facilities have been fully installed in accordance with the plans, as approved, and that they are in conformance with the requirements of this Code.

d) The Community Development Director will notify the subdivider via letter (mailed or electronically mailed) as to whether the improvements will be accepted for City maintenance. The improvements will be accepted only with the concurrence of the Community Development Director, Public Works Director, Utilities Director, and Parks & Recreation Director.

3. Record Drawings Submittal Requirements

a) Record Drawings shall be submitted to the Public Works Director and Utilities Director for review and approval.

b) The computer-aided drawing file to be submitted shall be labeled with the contractor's name, the engineer's name, the subdivision name, the subdivision location, and the final inspection date. The computer-aided drawing file shall be the file used to generate the final Record Drawings (hard copy). The computer-aided drawing file shall depict the final as-builts with the rights-of-way and the subdivision tied to an existing established monument and using the City Coordinate System or approved coordinate system as outlined in the Minimum Standards for Surveying in New Mexico. The computer file drawing shall be in one of the latest two versions of AutoCAD, or in a similar 100 percent compatible and transferable file. Prior to submittal of the digital Record Drawings, the project engineer shall enter into a digital file agreement with the City. The purpose of the digital file agreement is to protect the project engineer from liability in the event that the drawings become altered in any manner not approved by the City and the project engineer.

c) Said drawings shall be signed and sealed by a registered engineer of the state. The drawings made from the design drawings based on the contractors' as-builts and the computer-aided drawing file shall provide the following information for City review:

i) Grade changes. Reflect all changes in grading from the approved plan and profile sheets, including but not limited to curb elevations, property line elevations, drop inlets, curb return elevations, tops of manholes, and inverts.

ii) Street alignment changes. Designate any alignment change within a street right-of-way that deviates from that shown on the approved plan and the profile sheets.

iii) Detail sheet changes. Reflect any change in street cross sections, retaining walls or other general details that have been altered from the approved construction drawings.

iv) Utility changes. Designate all utility changes that deviate from the approved plan and profile sheets.

v) Park changes. Reflect any changes in park features that deviate from the approved plan.

d) Additionally, a detailed material listing shall be required. The materials listing must be a tabular listing that includes, wherever appropriate, mains (sewer mains must include depth), valves, manholes, fire hydrants, number of service lines, and number of drainage inlets. These materials must be represented in the listing by the standard measure or by the unit installed (e.g., linear foot, number of each). The listing must be separated by utility function for potable water, wastewater, storm drainage, and energy/gas. The listing must include:

i) Developer's name;

ii) Subdivision name and location;

iii) Date of final inspection;

iv) Quantity and unit of materials installed (e.g., 250 linear feet, eight each);

v) Cost of improvements; and

vi) Material description, including size or dimensions (e.g., 4-inch PVC main).

## D. Substantial Completion

In order to ensure the health, safety, and welfare of City residents and the ability of City departments to deliver required services, Final Plat will not be filed and Building Permits will not be issued until a subdivision has reached substantial completion as defined herein.

1. Infrastructure Required

a) Installation of the following systems, in their entirety, shall be completed prior to issuance of a building permit(s) (if applicable to the development):

i) Complete roadway sections (subgrade, base course, asphalt paving, curb and gutter, sidewalks/multi-use paths for Arterial and Collector Streets);

ii) Complete and electrified streetlighting system (or proof is provided that electrical work is in progress);

iii) Complete water, wastewater, energy/gas, and drainage systems as shown and authorized on the permitted construction drawings;

iv) Electrical and gas utility connections (or proof is provided that electrical and gas utility connection work is in progress);

v) Dedicated parks and trails (unless an agreement with the Parks Department has been established for improvements to be installed at a later date);

vi) Retaining structures and retaining walls;

vii) Any off-site infrastructure improvements; and

viii) Installation of mailbox clusters or other USPS-approved mail delivery systems.

b) Minor punch list items may remain, as determined by the City's project manager. Examples of such items may include signage (excluding traffic control), park equipment, landscaping, and screening walls.

2. Administrative Approval

The Community Development Director shall confer with the Public Works Director, Utilities Director, and Parks & Recreation Directors, along with any other reviewing agency affected by the delayed public improvements, for

their approval. When Substantial Completion has been confirmed, the Community Development Director shall approve the filing of a Final Plat and issuance of Building Permits.

3. Effect of Approval

   a) Upon Community Development Director approval, a Final Plat may be filed and a Building Permit may be issued.

   b) All other proposed construction or activities that require the Building Permit must be determined to comply with applicable standards and regulations.

   c) No final inspection of buildings or structures may occur, no Certificate of Occupancy may be issued, no public potable water service may be provided, and no building may be occupied until all items are completed.

4. Completion of Other Required Improvements

   a) Any delayed improvements shall be guaranteed in accordance with **Sec. 37-4.C.1** above.

   b) If required improvements have not been installed within the 2-year period, the Community Development Director may approve one extension of no longer than 6 months.

   c) Any further extension of time for completion of required improvements shall require approval of the Planning & Zoning Commission.

   d) Updated improvement cost estimates and additional performance security may be considered as a condition of any approved extension.

5. Plat Note

   The following note shall be included on all Final Plats filed using the Substantial Completion provisions contained herein: “Substantial completion of the subdivision’s public improvements must be obtained prior to City issuance of building permits for lots contained within this subdivision.”

# Chapter 38. Development Standards

## Sec. 38-1. Development Standards General Provisions

### A. Title

This chapter shall be known and shall be cited as the “Development Standards” of the City of Las Cruces, New Mexico.

### B. Purpose

Each section contained herein specifies the purpose of the regulations.

### C. Applicability

Each section contained herein specifies the applicability of the regulations.

### D. Adequate Public Facilities Required

Adequate public facilities are required in accordance with **Sec. 37-4. Adequate Public Facilities**. A public facility is considered sufficient when it is demonstrated to have available capacity to meet the demand generated by the proposed development, the Comprehensive Plan, other adopted master plans for public facilities, and applicable capital improvement plans.

### E. Lot Type and Dimensional Standards

Lot design shall meet the lot type and configuration requirements and provide adequate width, depth, and shape in accordance with the standards outlined in **Chapter 36. Zoning Regulations**.

# Sec. 38-2. Roads, Rights-of-Way, and Parking

## A. Purpose

The purpose of this section is to regulate various transportation-related issues associated with public and private development, such as street design criteria, street layout, access management, installation of streetlighting, and preparation of traffic impact studies. In all transportation decisions, safety shall be prioritized to ensure the well-being and protection of every individual traveling within the City. These regulations are intended to provide a transportation network that accommodates pedestrian, bicycle, mass transit, vehicular traffic, and emergency services. Development shall be supported by a connected street network having adequate capacity, ingress/egress, traffic circulation, low traffic speeds, safe pedestrian and bicycle facilities, and mitigation of urban heat impacts.

The applicant shall ensure that the subdivision plat is served by an adequate roadway network, including local streets, collectors, and arterials, and shall be responsible for the costs of rights-of-way and street improvements in accordance with the following requirements and standards. The location and design of the transportation network shall be guided by the Active Transportation Plan, the Comprehensive Plan, and requirements of this section.

## B. Applicability

1. All new and reconstructed roadways shall meet the requirements contained herein. Other best practices resources that may be referenced and enforced by the City include, but are not limited to, publications developed by organizations such as NMDOT, AASHTO, FHWA, ITE, and NACTO, and federal requirements such as ADA and PROWAG. The most current version of these publications may be used along with engineering judgement to justify waivers from the criteria outlined in this document, if needed, in support of the vision and goals of the City of Las Cruces.
2. Designation of a particular street shall be determined by the following classification in accordance with the Comprehensive Plan Future Thoroughfare Map, Mesilla Valley MPO Future Thoroughfare Map, Active Transportation Plan, and Long-Range Transit Plan, any location- or corridor-specific plans, and other City Council adopted plans.
3. These regulations are intended to promote a hierarchy of connected streets where arterials connect to collectors and collectors connect to local streets to provide a multimodal connectivity that is conducive to pedestrians and bicyclists.

## C. Street Design Criteria

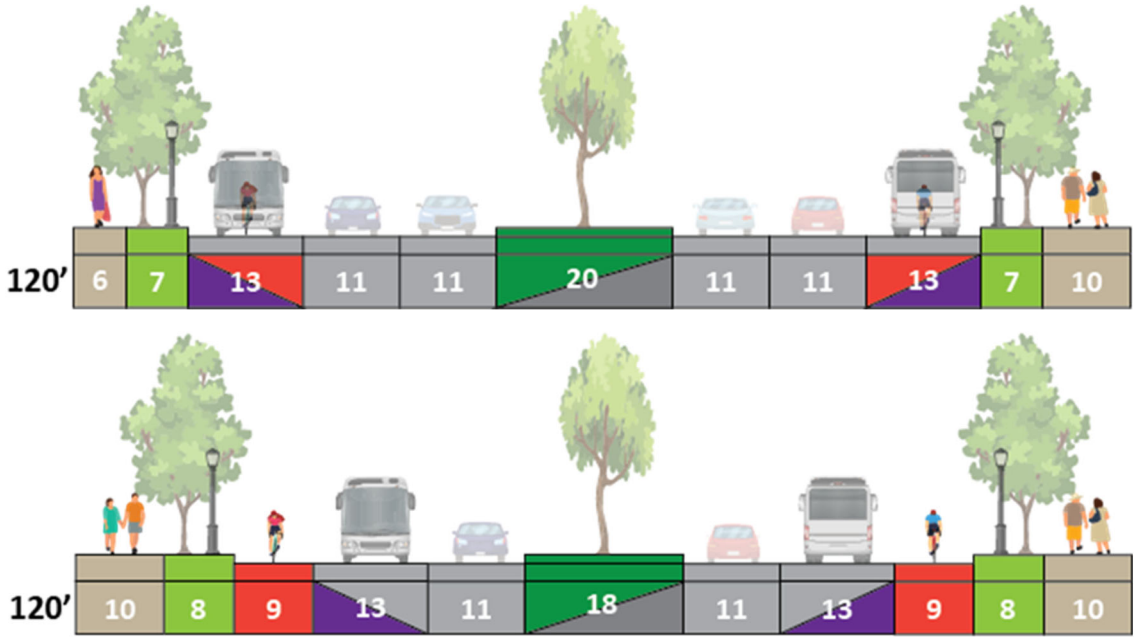
1. This section provides requirements for new construction of a roadway network that provides safe transportation for all modes, along with possible infill alternatives to accommodate reconstruction within limited rights-of-way.
    a) If more than one cross-section configuration is shown below, in Figure 38-2-1- Roadway Cross-Sections, the applicant shall have the option to select the configuration appropriate for the proposed development with consideration of the surrounding neighborhood or area. If there are proposed modifications to the cross-sections outlined within this Code, then the Development Review Committee may approve alternative cross-sections.
    b) The cross-sections shown in Figure 38-2-1- Roadway Cross-Sections are illustrative minimums and the Development Review Committee reserves the right to require additional or reduced improvements and/or right-of-way as necessary to meet City goals and plans.
2. The subdivider shall dedicate all rights-of-way in accordance with this section.
    a) Requirements for dedication of rights-of-way and improvement of approach roads, signalization, median breaks, additional lanes, and other traffic mitigation or safety improvements may be increased depending upon the size or density of the proposed development, if the need is demonstrated by a Traffic Impact Analysis, or to accommodate drainage and/or sustainable practices.

3. The roadway network for new subdivisions shall also meet the requirements of any required traffic impact analysis (see **Sec. 38-2.G. Traffic Impact Analysis**).
4. All arterial, collector, and local streets shall include curb and gutter drainage systems. Modifications to the curb and gutter drainage systems are permitted for stormwater harvesting if approved by the Development Review Committee. In the roadway cross-sections contained herein, the curb is included in the parkway or multi-use path/sidewalk and median widths shown herein, while the gutter width is included in the travel lanes. Traffic instruments shall be located within the utilities and street furniture easements.
5. Where required by the City or proposed by the subdivider, any alleys shall be constructed based on the requirements of this section.
6. Facilities for pedestrians and bicyclists must consider urban heat mitigation measures, including but not limited to shade and cooling surfaces, in accordance with the City's Urban Heat Study.
7. Green infrastructure and low-impact development is encouraged whenever possible. See **Sec. 38-4. Low-Impact Development and Green Infrastructure** for more information. The recommendations provided by the National Association of City Transportation Officials (NACTO) in the Urban Street Design Guide Stormwater Management section may be utilized as a reference for the development of green infrastructure along roadways within the City limits.
8. For intersection design, no fire apparatus shall encroach into oncoming traffic without specific approval of the Fire Marshal. An auto turn truck radius diagram shall be required to show a fire apparatus can meet intersection design requirements.
9. The capacity of on-site intersections and facilities shall be sufficient to prevent traffic entering the site from backing up on to the adjacent street.
10. The roadway network shall incorporate any required ADA paratransit (Dial-a-Ride) improvements (e.g., signage, accessible station design) required by the City.
11. All streets, including curb and gutter improvements, sidewalks, multi-purpose paths, streetlighting and all associated costs (subject to the City's adopted cost-sharing policy described in **Sec. 38-2.I.9.b) Developer Responsibility**), and other required infrastructure shall be provided by and at the expense of the subdivider. The subdivider shall dedicate all rights-of-way in accordance with this section and install all improvements in accordance with the standards required by this section. See **Sec. 37-4.D. Substantial Completion** for more information regarding the timing of infrastructure installation.
12. If an arterial or collector is bordering subdivision boundaries with another property owner, the subdivider shall dedicate half the required rights-of-way in accordance with this section and install all required improvements within this area in accordance with the standards required by this section. The limits of the required improvements are not limited to the frontage of the subdivision boundary and may extend beyond the limits of the subdivision to meet the City's safety and street network connectivity goals (e.g., when required by a Traffic Impact Analysis, tapering to align with connecting roadways, etc.).

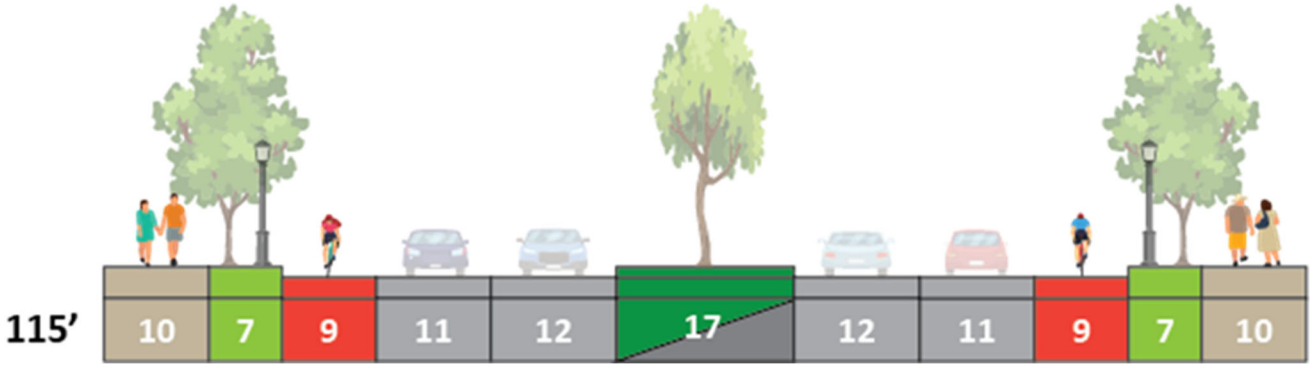
**Figure 38-2-1. Roadway Cross-Sections**

| Element | Description |
|---|---|
| Travel Lane | Travel lanes shall meet the roadway cross-sections widths of this section. The DRC may modify lane widths based on Character Areas, neighborhood characteristics, adjacent land uses, and other factors. For roadways with low travel speeds, the roadway design should include elements that provide for a safe and comfortable roadway for cyclists sharing the road. |
| Parking | A parking lane may be required for new development in Urban Character Areas and Suburban Character Areas. When parking is placed adjacent to a bikeway, the bikeway shall be placed on the street side of the parking lane unless an alternative design is approved by the DRC. |
| Bikeway | Bikeways shall meet the roadway cross-sections of this section. A bikeway facility shall be a buffered or protected bike lane with at least a three-foot buffer and six-foot lane for principal and minor arterials unless modified by the DRC. The DRC may also require physical barriers within the buffer, such as delineators or curbing to provide further protection to bicyclists. |
| Bike + Transit | For Urban Character Areas and Suburban Character Area, the DRC may determine that a dedicated transit lane is required for new development to provide continuous use for transit vehicles. Since bus usage is typically infrequent, the lane can also provide access to bicyclists. Appropriate markings and signage shall be utilized for shared lanes and transit lanes as required by the DRC. |
| Bike + Travel | For Local Streets, the DRC may determine that sharrow marking and appropriate signage be installed for these lanes. |
| Travel Lane + Transit | For Urban Character Areas and Suburban Character Area, the DRC may determine that a dedicated transit lane is required for new development to provide continuous use for transit vehicles. Appropriate markings and signage shall be utilized for transit lanes as required by the DRC. |
| Multi-Use Path/Sidewalk | A multi-use path is a shared path that serves both pedestrians and bicyclists and is the default bicycle facility for new development. Multi-use paths shall have a minimum width of 10 feet, unless modified by the DRC to accommodate infill constraints. Paths narrower than 10 feet are considered sidewalks. At the DRC's discretion, a multi-use path and parkway may be modified in Urban Character Areas to create a wide sidewalk with tree wells exclusively for pedestrian use where the mixing of pedestrian and bicycle traffic may not be appropriate. |
| Parkway | Parkways are an important street design element that provides a buffer between pedestrians/bicyclists and vehicles and supports a zone for street tree installation. At the DRC's discretion, parkway widths may be reduced to accommodate infill constraints. In Urban Character Areas, the DRC may also require tree wells within the parkway to increase the width of the sidewalk zone. |
| Median/ Turn Lane | A median shall be installed based on the cross-sections in this section to serve as a vertical barrier between directions of vehicular travel. The median can also accommodate a left turn lane in certain locations while maintaining an area for a pedestrian refuge. A continuous median is required with no median openings at the time of development unless median opening criteria is met. At the DRC's discretion, a two-way left turn lane may be installed in place of the median for Collectors with four travel lanes or less that have lower traffic speeds and volumes. |
| Center Lane | A two-way left turn lane may be installed in place of the median for Collectors with four travel lanes or less that have lower traffic speeds and volumes. A two-way left turn lane must be approved by the DRC. |

## Principal Arterial

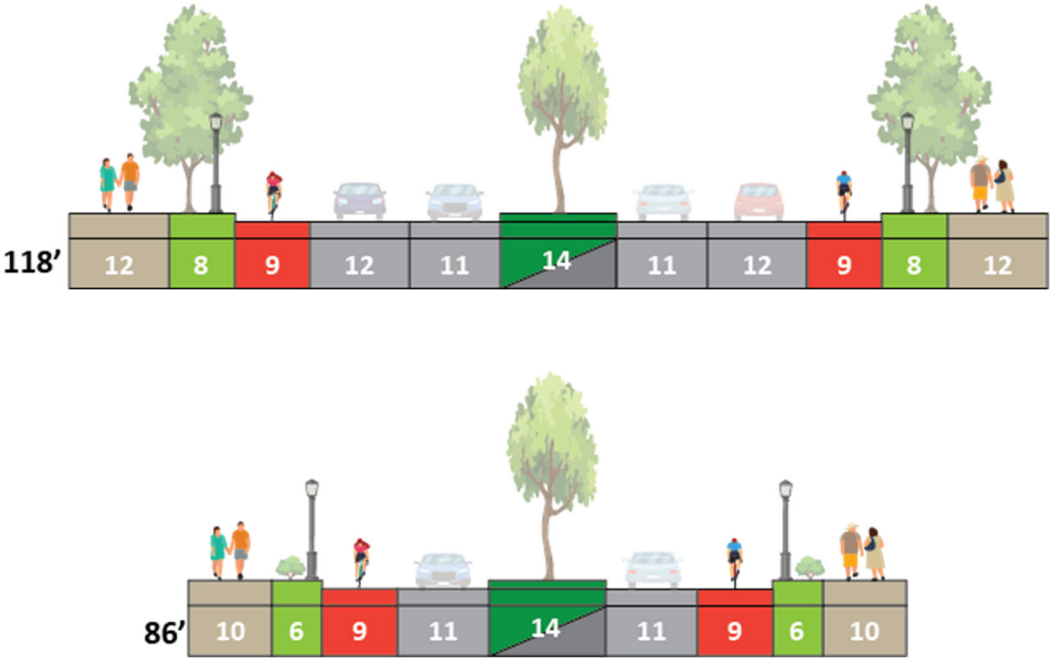



## Minor Arterial



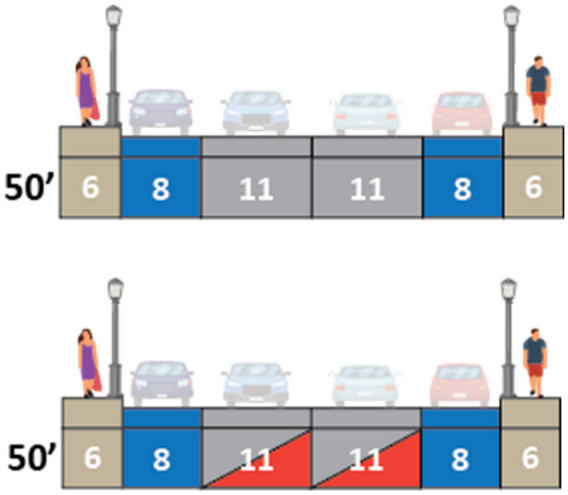

Travel Lane | Parking | Bikeway | Bike + Transit | Bike + Travel | Travel Lane + Transit | Median/ Turn Lane | Multi-Use Path/Sidewalk | Parkway

## Collector

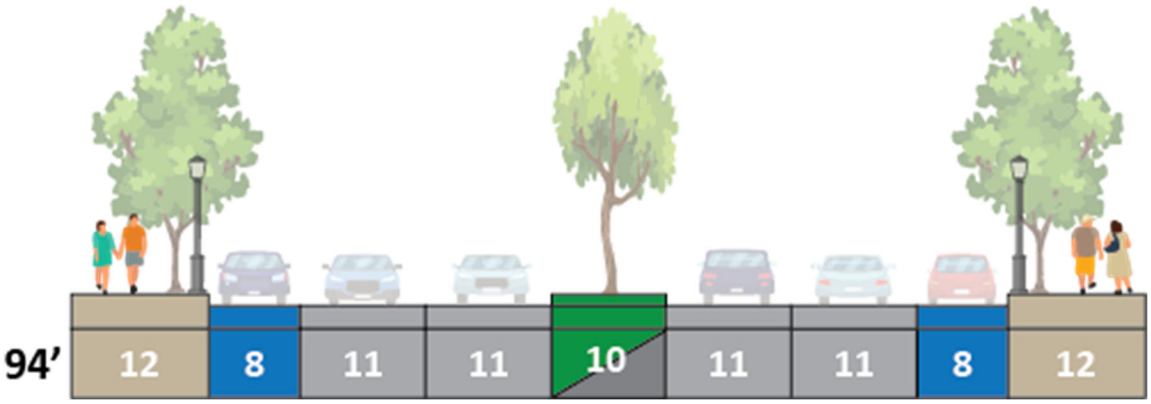



Travel Lane | Parking | Bikeway | Bike + Transit | Bike + Travel | Travel Lane + Transit | Median/ Turn Lane | Multi-Use Path/Sidewalk | Parkway

## Local Street

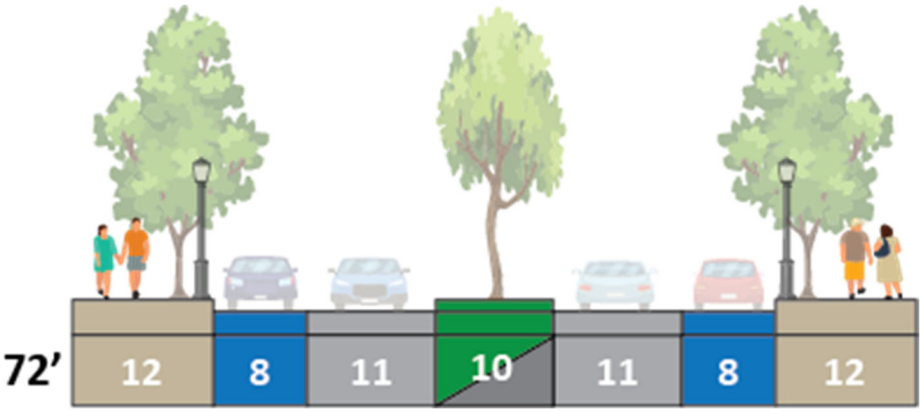



## Boulevard

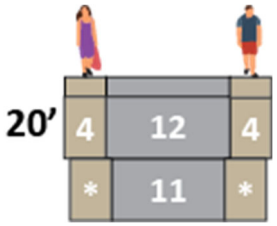



Travel Lane | Parking | Bikeway | Bike + Transit | Bike + Travel | Travel Lane + Transit | Median/ Turn Lane | Multi-Use Path/Sidewalk | Parkway

## Avenue




## Alley




*Asterisk indicates variable right-of-way width based on fire safety or utility needs, as determined by the Fire Marshal or Public Works Director.

Any structures that have alley-only access shall have a 20’ clear paved width alley. The Fire Marshal may require that any structures with alley-only access be fire sprinklered.



## D. Private Streets

1. Standards

   a) No collectors or arterials as designated by the Comprehensive Plan Future Thoroughfare Map may be a private street.

   b) Construction and development of private streets shall meet the standards for right-of-way width and improvement as applied to public streets. All private streets shall be designed, constructed, and maintained to meet City standards. Property owners are responsible for ensuring ongoing maintenance for private streets, including streetlighting, traffic controls, and other related features.

   c) All traffic control devices and regulatory signs on private streets shall conform to those required on public streets.

   d) Streetlighting shall meet the requirements for public streets and shall be entirely at the expense of the subdivider and subsequent property owners.

2. Waiver of City Services

   The subdivider shall note any waiver of services on the subdivision plat. Certain City services may not be provided for private street subdivisions, including emergency services, street maintenance, law enforcement patrols, enforcement of traffic and parking regulations, preparation of accident reports, and payment of costs for street lighting.

3. Homeowners' Association (HOA) Requirements

   a) The subdivider shall provide for the establishment of a homeowners' association (HOA) to assume the obligation of perpetual maintenance of private streets and other improvements held privately, including a mandatory assessment for such private streets, drainage structures, and any other improvements to be placed on all property owners within the subdivision, allowance for City staff to inspect the streets to ensure they are being maintained to City standards, hold harmless provisions as required in this section, and providing for notice to the City of any amendments to these relevant sections.

   b) The HOA shall clearly mark entrances to all private streets with a sign placed in a prominent and visible location indicating that the streets within the subdivision are private, and not maintained nor regularly patrolled by the City.

   c) All restricted access entrances shall be staffed 24 hours every day, or they shall provide a reliable, alternative means of ensuring access into the subdivision by the City, by emergency service providers, and by other utility or public service providers, such as postal carriers and utility companies, with appropriate identification.

   d) Gates on fire apparatus access roads shall open not less than 20 feet of clear-width for two-way gates and 15 feet of clear-width for one-way gates. The method used to ensure City and emergency access into the subdivision shall be approved by the Fire Department and by any other applicable emergency service providers during the Final Platting process. Gates on private streets shall provide a traffic queue analysis and provide adequate on-street storage in advance of the gate.

      i) If the HOA fails to maintain reliable access, the City may enter the private street subdivision and remove any gate or device that is a barrier to access and bill the expense to the association. If the bill is not paid, the City may file a lien for the expense against any property owned by the association.

   e) The HOA, as owner of the private streets and appurtenances, shall release, indemnify, defend and hold harmless the City, any other governmental entity, and any public utility entity for damages to the private streets that may be occasioned by the reasonable use of the private streets by same, and for damages and injury or death arising from the condition of the private streets, out of any use of access gates or cross arms, damages arising from emergency response, or out of any use of the subdivision by the City or governmental or utility entity.

4. Consideration of City Acceptance of Private Streets

a) Requirements and Conditions

i) The City shall not be required to accept any private streets for public dedication and maintenance.

ii) Such streets must meet the City's current standards or be brought up to the current standards prior to acceptance.

iii) As a condition of accepting the dedication and maintenance of private streets, the City may impose a requirement for repairs and improvements at private expense prior to acceptance, enter into an agreement for an assessment or pro-rata sharing of costs for repairs or improvements prior to acceptance, or other legal or equitable options to ensure that the streets being accepted are not a liability to the City. The City shall be the sole judge of the nature and extent of repairs or improvements needed.

iv) The City may also require, at the sole expense of the association's or property owner's expense, the removal of any guard houses, access control devices, landscaping, or other amenities located within the streets or common areas prior to City acceptance.

b) Consideration Process

i) The HOA may petition the City to accept private streets and any associated property as public streets and right-of-way upon written notice to all association members, and the favorable vote of a majority of the membership.

ii) The HOA shall supply documentation that the roadways were originally built to the City's Construction Standards or have been brought into compliance in accordance with **a)ii)** above.

iii) A Final Plat shall be submitted to the **Error! Reference source not found.** for review and recommendation, then submitted to the City Attorney for review and approval prior to submission of this request to the Planning & Zoning Commission and City Council. City Attorney approval is required prior to review by the Planning & Zoning Commission and City Council.

iv) The Planning & Zoning Commission shall consider the request and forward a recommendation to City Council. The City Council shall make their decision based on the public health, safety, and welfare considerations of the community.

## E. Street Layout

1. Applicability

   New subdivisions shall be supported by a connected street layout that provides for enhanced traffic circulation, interconnectivity, and low traffic speeds. The roadway network for new subdivisions shall meet the International Fire Code and the following requirements in this section.

2. Street Hierarchy

   Higher classification roadways will connect to lower classification roadways to promote safer traffic speeds and multimodal connectivity.

   a) Arterials may connect to Arterials and Collectors.

   b) Collectors may connect to Arterials, Collectors, and Local Streets.

   c) Local Streets may intersect/connect as necessary to improve neighborhood/activity center access, connectivity, and public safety.

3. Roundabouts and Traffic Circles

   a) Roundabouts or traffic circles shall be the standard form of traffic control provided at all new and reconstructed intersections that meet MUTCD warrants for the installation of all-way stop control or a traffic signal.

i) Exception: The Public Works Director may determine that another configuration is preferable in certain situations.

b) The design of all roundabouts and traffic circles shall be reviewed and approved by the Public Works Director and Fire Marshal.

4. Cul-de-Sacs and Dead-End Streets

a) Cul-de-sac streets are discouraged unless necessary to preserve natural and/or environmentally sensitive features (e.g., drainageways, protected trees) as determined by the Community Development Director.

b) No cul-de-sac shall exceed the length as in **Figure 38-2-3**.

c) No cul-de-sac in any unsprinklered single-family subdivision shall serve more than 25 single-family dwelling units.

i) For purposes of this paragraph, cul-de-sac length shall be measured along the centerline of the cul-de-sac from a point beginning at the intersection of the cul-de-sac street with the centerline of the street from which it extends to the center of the turnaround at the end of such cul-de-sac. For the purposes of measurement, either a full four-way intersection or a three-way intersection shall be considered an intersection.

**Figure 38-2-2. Cul-de-Sac Length Measurement**

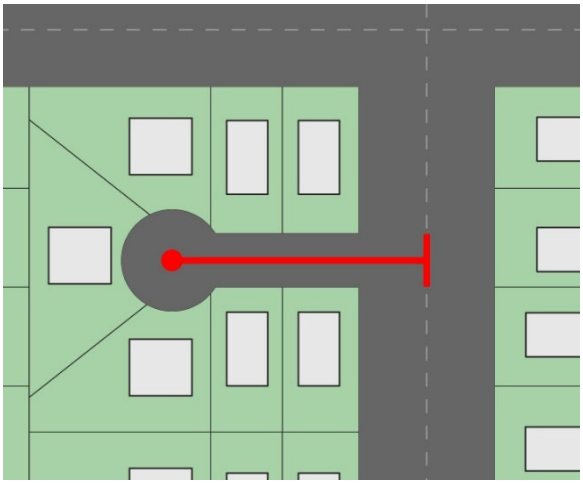


**Figure 38-2-3. Width for Cul-de-sac Streets for Certain Activities**

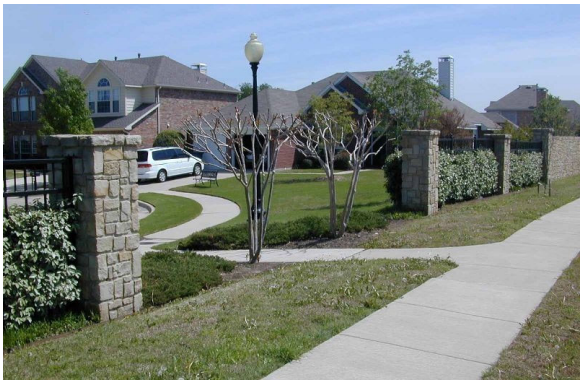
| Activity Served | Cul-de-Sac Paving Width* | Cul-de-Sac Right-of-Way Width | Cul-de-Sac Maximum Length | Turnaround Paving Width* | Turnaround Right-of-Way Width |
|---|---|---|---|---|---|
| 1—25 residential dwellings | 38’ | 56’ | 600’ | 96’ diameter | 110’ diameter or 100’ with 12’ sidewalk and utility easement** |
| All Other Development | 38’ | 54’ | 600’ | 96’ diameter | 110’ diameter or 100’ with 12’ sidewalk and utility easement** |
| LI, Light Industrial District (Rural, Suburban, Urban) or HI, Heavy Industrial District (Rural, Suburban, Urban) | 40’ | 62’ | 600’ | 100’ diameter | 120’ diameter |

*Measured to lip of curb

**Shall be a minimum of 12’ of right-of-way or right-of-way/easement combination behind curb

d) A cul-de-sac is only permitted if pedestrian and bicycle access is provided to an adjacent or nearby park, roadway, trail, or City-dedicated open space (see example in **Figure 38-2-4**). A minimum ten-foot paved path shall be dedicated and improved to provide pedestrian and bicycle access between the cul-de-sac and adjacent or nearby park, roadway, trail, or City-dedicated open space.

**Figure 38-2-4. Cul-de-Sac with Pedestrian Connection**



e) No dead-end streets will be approved unless the streets are provided to connect with existing streets or future platted streets on adjacent land. In the case of dead-end streets that will eventually be extended into the adjacent property, no more than one lot (per side) can front onto the dead-end street stub unless a temporary turnaround bulb is provided. A temporary dead-end street shall not exceed the maximum allowed length of a normal cul-de-sac, and the temporary turnaround bulb must be constructed based on the standards of a cul-de-sac. Signage shall be provided at the street stub identifying the stub as a future connection.

5. Block Length and Perimeter

a) Measurements shall be calculated along the centerline of the street from the centerline or center point of one intersection to the centerline or center point of the next intersection to include knuckles and/or turns and curves, including a three- or four-way intersection or a curve that exceeds 75 degrees, as shown in **Figure 38-2-5**.

b) The maximum length of any block or street segment shall be as shown in **Figure 38-2-6**, based on the location's Character Area. These requirements do not apply to frontages along arterial streets.

**Figure 38-2-5. Measurement of Block Lengths and Perimeters**

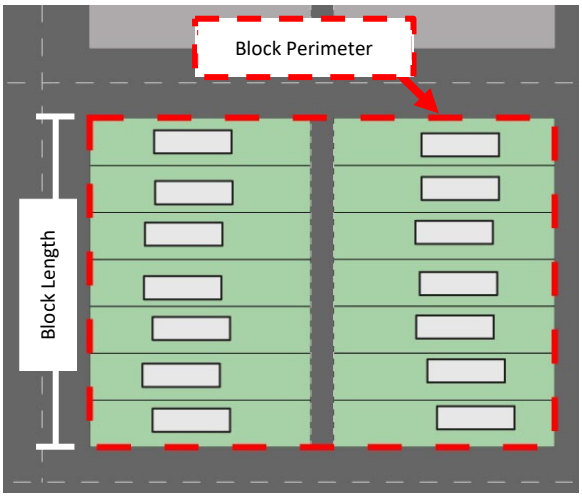



**Figure 38-2-6. Maximum Block Lengths and Perimeters**

| Character Area | Max. Block Length | Max. Block Length with Traffic Calming Measures approved by the DRC* | Max. Block Perimeter |
|---|---|---|---|
| Urban Character Area | 400' | 600' | 2,200' |
| Suburban Character Area | 660' | 800' | 3,000' |
| Rural Character Area | 900' | 900' | N/A |

*The Development Review Committee may require additional traffic calming measures based on the design of the blocks and roadway network of the subdivision. Continuous streets with no traffic control may require traffic calming.

6. Traffic Calming
    a) New development shall implement traffic calming measures as required in the Traffic Calming section of the Technical Manual and the Speed Management Policy for Arterials and Non-Residential Collectors.
    b) Arterial, collector, and local street traffic calming implementation, such as roundabouts, shall be installed at the time of roadway development and as approved by the Public Works Director and Fire Marshal based on FHWA guidelines and City requirements.
7. Alleys
    a) Alleys are permitted in all new development and redevelopment projects.
        i) If alley access is provided, then the Development Review Committee may modify the required street cross-section to reduce the right-of-way and/or pavement width accordingly.
    b) Where the average lot width along a block face averages 20 feet or less, the lots shall be rear-loaded with alley access.
        i) Exception: Townhouse lots may be narrower than 20 feet and front-loaded.
    c) The following general requirements apply to alleys:
        i) Alleys shall be as nearly parallel to the street frontage as reasonably possible.
        ii) Alley intersections with streets shall be at right angles.
        iii) Alleys shall not be platted to intersect with arterial or collector streets.
        iv) Dead-end alleys shall not be permitted unless a permanent or temporary turnaround is provided.
        v) Alleys forming the boundary of a subdivision, and adjacent to unplatted property, shall be dedicated and improved the same as if situated in the interior of a subdivision.
8. Alignment, Offsets, and Spacing
    a) Arterials and collectors shall be spaced and aligned in a continuous network that is in a rectilinear pattern. Intersections shall be square, both vertically and horizontally. Street approaches shall be at a 90-degree angle for a length = Intersection Sight Distance (see **H. Clear Sight Triangle**) * 1.5 measured from the center of the intersection.
    b) Offsets for local streets shall be limited to a minimum spacing of 200 feet from centerline to centerline. Offsets between streets may be addressed by roundabouts if approved by the Public Works Director.
    c) Principal arterials shall be spaced at least two miles apart, minor arterials at least one mile apart, and collectors at least one-quarter mile apart.

## F. Access Management

1. Applicability
    a) All new development shall comply with the access management provisions of this section, including roadway network connectivity and driveways. All driveways shall be installed on public and private streets in accordance with this section, which defines access widths, spacing and offsets. No person shall construct a driveway without first obtaining a permit from the City.
    b) Where multi-use paths are utilized, driveway access will be limited to minimize conflicts between vehicles and pedestrians/bicyclists.
2. Purpose

    This section provides controls for access management and driveways for residential and nonresidential areas. The purpose of access management controls is to ensure safe ingress/egress, promote convenient access between adjacent sites, and lessen congestion on roadways.

3. Generally

a) Access point design should be compatible with the function of the roadway since the number, spacing, type and location of access points has a significant effect on capacity, speed, and safety.

b) Consolidated access points, including the requirement of a dedicated access point via roadway (public or private) or alley to serve all subdivided lots, shall be required for large parcels (e.g., shopping centers or other multi-tenant developments) to reduce conflict points between pedestrians, cyclists, and vehicles.

c) Construction of all access points, regardless of existing curbs or curb cuts, requires a site plan, which shall be provided to the Community Development Department and Public Works Department if applicable for approval prior to building permit issuance.

d) The approval of access permits may be granted if both the design and the construction of driveways and median openings are compatible with the intended function of the roadway facility, as defined in this section.

e) Access management shall meet the following requirements:

i) Appropriate Throat Lengths

Appropriate throat lengths (both unobstructed and with cross traffic permitted) for ingress and egress points, stacking and queuing lanes, pedestrian accommodations, bicycles facilities, and any facilities or accommodations which could impact traffic operations along the adjacent roadways or overall traffic safety. The internal circulation system should be designed to preclude stacking or queuing in the travel lanes of adjacent roadways.

ii) Internal Vehicle Circulation (Internal Roadway Network)

Internal circulation is the means by which vehicular traffic is delivered between entry points and parking areas, pick-up/drop-off points, and service areas. Internal circulation roadways should permit access between all areas. These roads should be designed to safely and efficiently deliver vehicles and pedestrians to their respective destinations.

iii) Service and Delivery Vehicles and Access to Waste Containers

Service and delivery vehicles require separate criteria for movement to and from the site and loading docks – location, size, number, turning movement exhibits, ease of access from street/alley/internal road/parking lot, loading areas. Of particular interest is that adequate turning paths are provided for large service vehicles to allow entry and exit without encroaching upon opposing lanes or curbed areas.

There should be sufficient separation between external and internal circulation roads so large vehicles can be queued on entry or exit without blocking access to parking spaces or internal roadway circulation systems and include swept path analysis for designated driveway from the public roadways (both ingress and egress and both directions) and loading docks and/or dumpster(s). The number of loading berths provided should be sufficient to accommodate anticipated service and delivery activity.

iv) Emergency Vehicles Access

Emergency vehicle access shall comply with the requirements for the most recently adopted International Fire Code Section 503. Fire Apparatus Access Roads.

v) Queuing Analysis

Adequate internal and external vehicle queuing storage is crucial for safe and efficient access and circulation.

For any development, appropriate vehicular queuing should be provided at all access drives. In small developments, parking areas and access points should be designed to allow vehicles waiting to exit to align perpendicular to the off-site roadway system. In large developments, queuing areas should be spacious enough to prevent stored vehicles from obstructing internal circulation and to enable drivers to enter a signalized intersection with minimum headways for maximum flow rates. Queue storage within parking

facilities or parking areas should allow vehicles to enter and come to a stop without blocking internal circulation or causing traffic backups on the off-site roadway. Drive-through establishments like banks, car washes, and fast-food restaurants should have sufficient capacity to accommodate normal peak queues. Since many of these businesses have major daily or seasonal variations in activity, peaking characteristics should be carefully evaluated.

vi) Parking Requirements

The parking provided by the project must be adequate to meet the anticipated use of the site. Off-street parking shall be provided in accordance with **Sec. 38-2.N. Off-Street Parking**. In some cases, special parking demand studies may be provided to assess the adequacy of the parking per ITE guidelines or data from at least three similar sites. Proper parking layout shall not affect traffic flow and operations on the external street systems and internal circulation.

vii) Pedestrian, Transit, Bicycles, and Handicapped Facilities

The overall site plan should also consider public transportation, pedestrians, bicyclists and those with disabilities. Adequate facilities for parking bicycles should be included. Transit facilities, carpool parking, and shuttle bus staging areas should be provided as appropriate for the development. Where provided, these facilities should be located adjacent to service drive and entrance locations, at key locations along circulation drives, or at major pedestrian focal points along the external roadway system. Pedestrian connections between these facilities and the site's buildings must be integrated into the overall project design, and provide maximum accessibility through the use of sidewalk ramps, etc. These connections must also be provided to the public sidewalk, path, or trail systems surrounding the site.

4. Residential Lot Access and Frontage

a) Within the Urban Character Area, where a subdivision abuts or contains an existing or proposed Arterial Street or Collector Street, lots, including residential lots, shall front onto the Arterial Street or Collector Street with the following requirements:

i) Lots shall be accessed from an alley at the rear of the property.

ii) Lots shall not have driveway access to the arterial or collector street.

iii) There shall be a multi-use path along the entire face of the block with lots facing the arterial or collector street.

The Development Review Committee may waive the requirement for frontage onto existing arterial or collector streets where it is determined that, due to existing development or other unique situation, frontage onto an arterial would be overly burdensome to the landowner, result in double frontage lots, or jeopardize the public's health, welfare, and safety.

b) In all areas, residential driveways serving four or fewer units shall not have direct roadway access to an Arterial Street or Collector Street.

5. Subdivision Access Points

   a) All subdivisions shall provide vehicular access to principal arterials, minor arterials, collectors, and/or local streets to provide safe and efficient operations for pedestrians and bicyclists.

   b) The minimum number of access points shall be determined by a Traffic Impact Analysis and/or the Fire Code from the residential subdivision to the arterial or collector streets. The minimum number of access points shall be as identified in **Figure 38-2-7** or as required by the Fire Code, whichever is greater.

   c) Street stubs shall be credited as access points when ingress or egress to a development is available only from a single road on which the subdivision has less than 250 feet of frontage.

**Figure 38-2-7. Minimum Access Points**

| Development Type and Size | Min. Number of Access Points |
|---|---|
| Primarily Residential Uses | |
| Less than 30 units | 1 |
| Between 30 and 80 units | 2 |
| More than 80 units | 3 |
| All Other Uses | |
| Less than 5 acres | 1 |
| Between 5 and 20 acres | 2 |
| More than 20 acres | 3 |

      i) The provision of additional access points is not possible due to existing lot configurations, the absence of connecting streets, or environmental or topographic constraints;

      ii) The New Mexico Department of Transportation will not authorize additional access points;

      iii) Alternative access can be provided in a manner acceptable to the City that is supported by a Traffic Impact Analysis; or

      iv) All structures are equipped with fire sprinkler systems.

6. Connection to Adjoining Platted Right-of-Way

   The arrangement of streets in a development shall provide for the alignment and continuation of existing or proposed streets into adjoining lands where the adjoining lands are developed and have right-of-way platted for such connections.

7. Connection to Adjoining Undeveloped Lands

   The arrangement of streets in a development shall provide for the alignment and continuation of existing and proposed streets into adjoining lands where the adjoining lands are undeveloped and/or deemed appropriate for future development. Streets providing connection into such adjoining lands shall comply with the following:

   a) The arrangement of streets and blocks on the periphery of the development shall reasonably accommodate future development on the adjoining lands that complies with the standards in **E.5. Block Length**,

   b) Dead-end streets shall provide a temporary turnaround constructed to City standards (see **Sec. 38-2.E.4.e)**),

   c) The platting of partial width rights-of-way is prohibited except where the remainder of the necessary right-of-way has already been platted, dedicated, or established by other means, and

   d) The Final Plat shall identify all such streets (street stubs) and include a notation that all street stubs are intended for connection with future streets on adjoining lands.

8. Cross-Access Between Adjoining Multifamily, Nonresidential, and Mixed-Use Developments

   a) General

      i) New development shall be served by a system of sidewalks, paths, greenways, roadways, accessways, and other facilities designed to provide for multiple travel modes (motor vehicle, transit, bicycle, and pedestrian), based on the development's size and character, zoning district, and relationship to

development and development patterns in surrounding areas, and existing and planned community transportation systems.

a. The Development Review Committee may waive certain facilities for smaller developments.

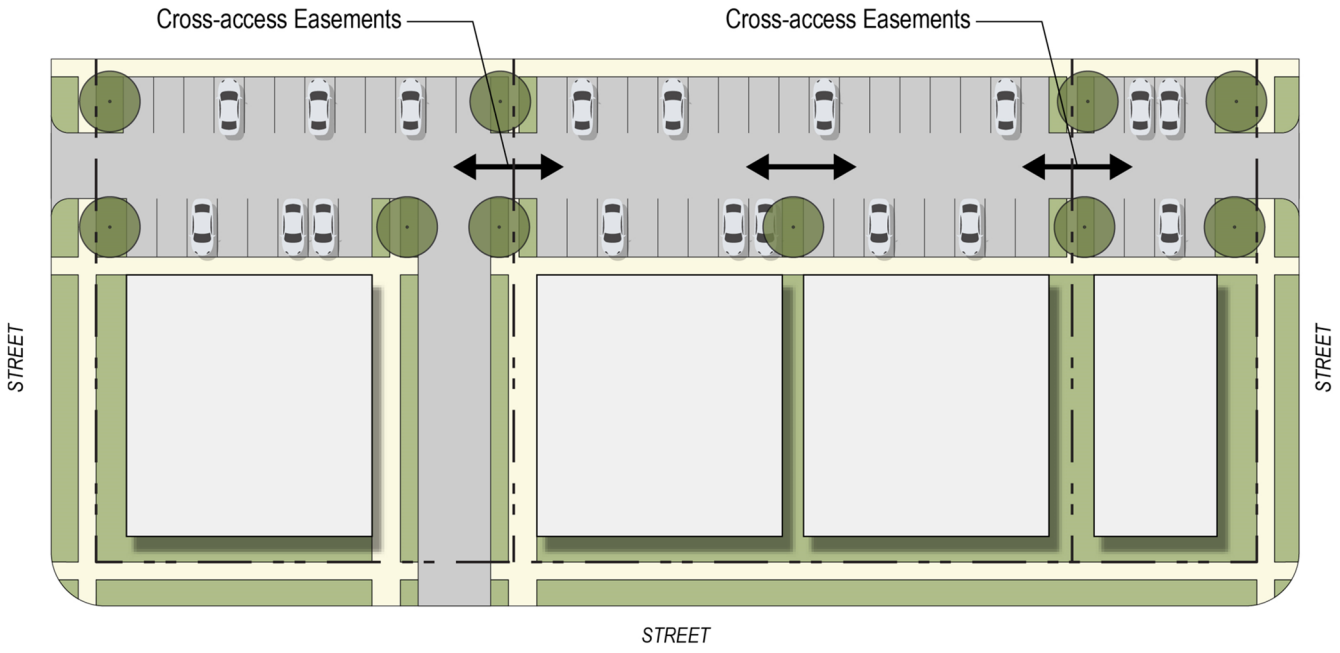
ii) Motor vehicle, transit, bicycle, and pedestrian access and circulation systems shall be coordinated and integrated to provide the development's occupants and visitors transportation options and to enhance safe and efficient mobility throughout the development and the community.

b) Pedestrian and Bicycle Cross-Access

i) Each internal pedestrian and bicycle circulation system in new multifamily, mixed-use, or nonresidential development, shall be designed and maintained to allow for pedestrian and bicycle walkway cross-access between the development's buildings and parking areas and those on adjoining lots containing multifamily, nonresidential, or mixed-use development and to vacant lands.

a. The Development Review Committee may modify the pedestrian and bicycle cross-access requirements upon determining that such cross-access is impractical or infeasible due to the presence of topographic conditions or built or natural features.

**Figure 38-2-8. Example of Cross-Access**




c) Parking Lots Cross-Access

i) Each internal vehicular circulation system in new nonresidential and mixed-use development shall be designed and constructed to provide vehicular cross-access between any parking lots within the development and any parking lots on adjoining parcels containing nonresidential or mixed-use development, and to the boundary of adjoining vacant land. The cross-access shall consist of a driveway or drive aisle(s) at least 27 feet wide or otherwise designed to accommodate a fire apparatus.

ii) Easements allowing cross-access to and from lands served by a vehicular cross-access, along with agreements defining maintenance responsibilities of landowners pertaining to the vehicular cross-access, shall be recorded by the landowner with the Doña Ana County Clerk's Office.

iii) The Development Review Committee may modify the parking lots cross-access requirements upon determining that such cross–access is impractical or undesirable due to the presence of topographic conditions, natural features, or vehicular safety factors.

9. Driveways

a) Driveway Design Elements

Required design criteria are presented in this section to define access widths, spacing, and offsets.

i) All Driveways

a. Driveway design shall comply with the NCHRP Report 659 – Guide for the Geometric Design of Driveways.

b. Driveways shall align with opposing streets and driveways if no raised center median exists on the cross street. However, if it is not technically feasible to align with existing driveways and intersections, proposed driveways shall meet the minimum distance requirements from adjacent street intersections and driveways as specified in **Figure 38-2-11. Minimum Commercial Driveway Spacing by Intersection Type**. The distance from adjacent driveways and intersection shall be sufficient to minimize driveway blockage from queue over-flow from adjacent intersections.

c. Driveways shall intersect at 90-degree approach angles to the primary direction of the abutting roadway, where applicable.

d. The number of driveways should be sufficient to provide adequate driveway capacity for the site yet kept to a minimum to reduce traffic conflicts. Access driveways shall intercept traffic approaching the site as efficiently as possible while providing adequate inbound and outbound access capacity.

e. Abutting properties shall share driveways and driving aisles. A written agreement shall establish the conditions of joint use, of maintenance requirements and of ingress/egress requirements. These agreements shall be approved as to form and content by the City Attorney and Community Development Director and must be referenced on the Final Plat, Site Plan, and/or Certificate of Occupancy. The agreement shall be properly executed by the owners of all affected properties, filed by the owners, and provided to the City once completed.

f. The design of driveways shall ensure that the minimum recommended horizontal and vertical intersection sight distance is adequately provided as defined in the latest edition of AASHTO's A Policy on Geometric Design of Highways and Streets. Adequate sight distances at driveways may include the addition of safety-related improvements including but not limited to right turn lanes, pork chop islands on the side street, slotted left turn lanes on the mainline or other traffic control devices.

g. Acceleration and deceleration lanes may be required on the City street for the access driveway as determined by the New Mexico State Access Management Manual.

h. If a driveway is proposed to be signalized, it should be located to facilitate traffic progression past the site. A signal progression analysis may be required for signalized driveways. Curb re-turn type access is allowed for signalized driveways. The Public Works Director may require additional analysis or improvements for signalized driveways.

i. Minimum throat length based on the type of control and number of lanes in the NCHRP Report 659 Exhibit 5-55 shall be met.

j. All access or driveway locations are subject to Public Works Director approval.

k. The Development Review Committee may modify any provision within this section upon determination that an alternative configuration would produce a more desirable outcome based on topographic conditions or other site-specific features.

ii) Residential Driveways

a. A residential driveway is an entrance to and/or exit from a residential dwelling or dwelling adjacent to a dedicated street, for the exclusive use and benefit of the residents. For driveways serving more than one dwelling on a lot (e.g., duplexes), a shared driveway is encouraged to minimize curb cuts.

b. Driveway widths shall be measured on the property line and no apron shall be closer than six feet from side property lines, except when serving adjacent properties. Driveways shall not be permitted in the taper area of any right-turn lane or any part of a right-turn lane.

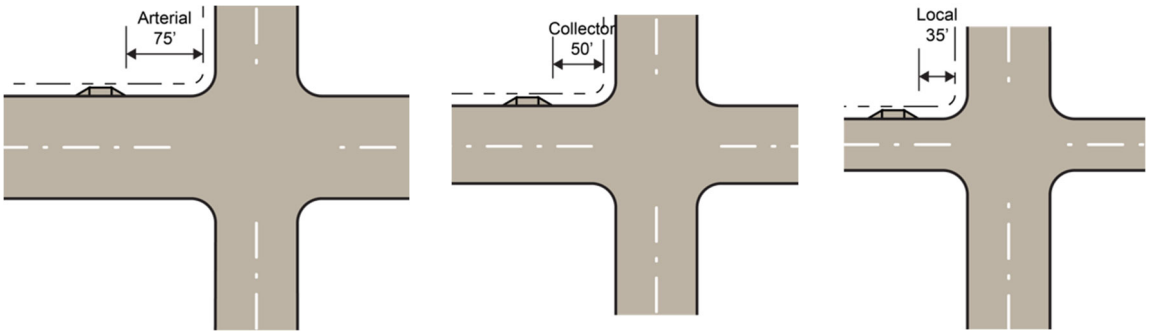
c. The minimum width of a driveway apron shall be 12 feet and the maximum width shall be 27 feet.

d. A minimum of 22 feet of standing curb must remain between any two driveways located on the same lot or single parcel of land.

e. No double or circle driveways shall be installed for lots that are 58 feet or less in width.

f. A corner property driveway apron shall be no closer than 35 feet from the property line at the intersecting local street, 50 feet to the property line along collector streets, and 75 feet to the property line along arterial streets (see **Figure 38-2-9. Minimum Residential Driveway Spacing by Street Type**). Under no condition shall driveways encroach on corner curb returns of intersections or within five feet from handicap access ramps.

**Figure 38-2-9. Minimum Residential Driveway Spacing by Street Type**




g. All driveways shall extend from any street, alley, or curbline to any garage, carport, or parking space. The slope of a driveway should start from the property line towards any garage, carport or parking space and not include the sidewalk. . The vertical transition of the driveway shall be designed to prevent contact of any vehicle undercarriage or bumper with the surface. No vehicle may overhang into or block any portion of a sidewalk.

iii) Commercial Driveways

a. A commercial driveway is an entrance to and/or exit from any commercial/industrial/institutional/office business, or similar type of establishment providing access by employees and/or the public adjacent to a dedicated street. For the purposes of this section, commercial driveways also apply to multifamily buildings with five or more units.

b. Driveway widths shall be measured on the property line.

**Figure 38-2-10. Driveway Apron Width**

| Street Accessed | Minimum | Maximum |
|---|---|---|
| Arterials | 30 feet | 40 feet |
| Collectors | 30 feet | 40 feet |
| Local Streets | 25 feet | 35 feet |

c. The width of two-way driveway aprons shall be based on the classification of the roadway that is being accessed (see **Figure 38-2-10**).

d. The width of one-way driveway aprons shall be a minimum of 15 feet per access lane. Gates on fire apparatus access roads shall open not less than 20 feet of clear-width for two-way gates and 15 feet of clear-width for one-way gates.

e. A minimum of five feet of standing curb must remain between one-way curb cuts.

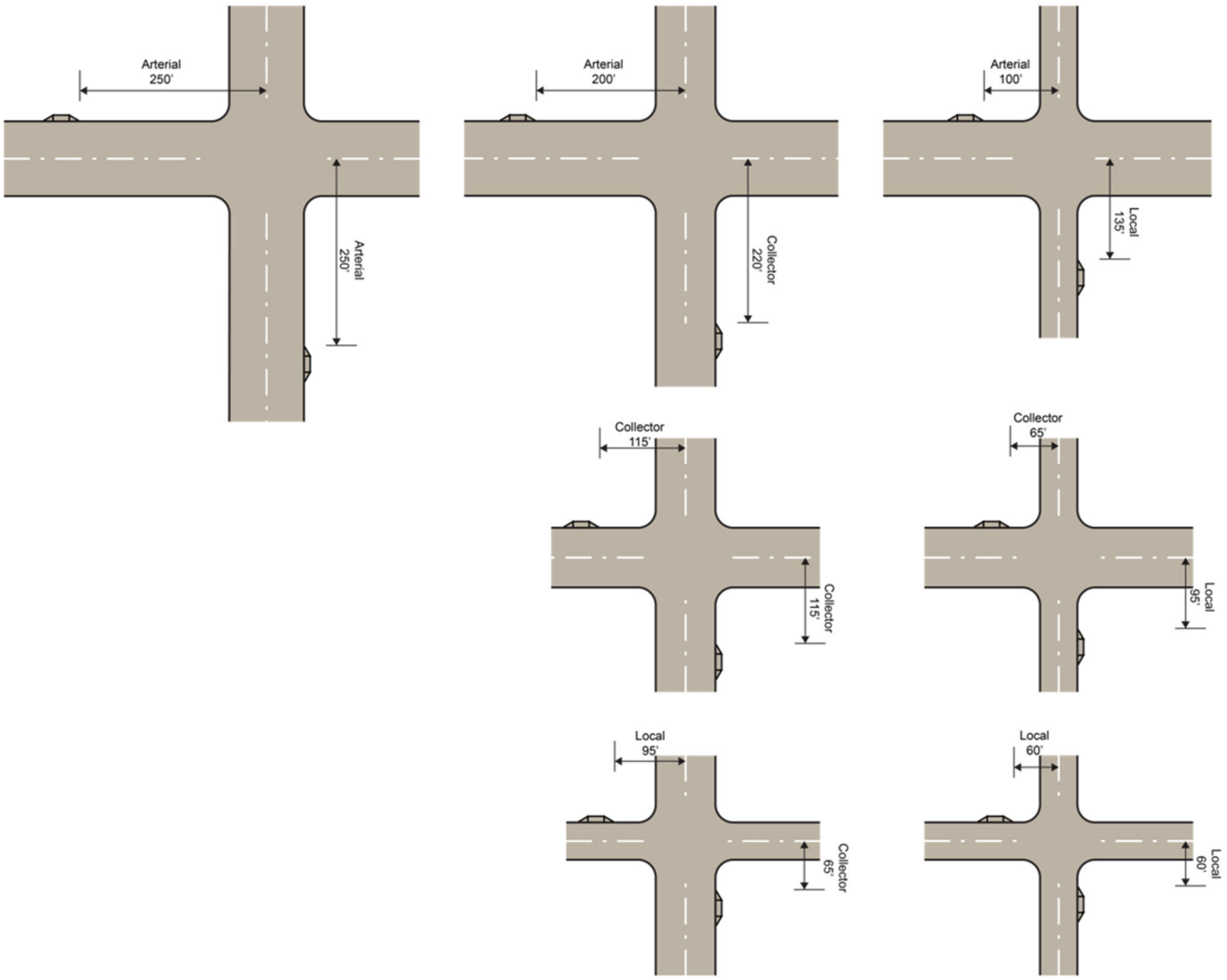
f. Driveway distances to adjacent intersections shall meet the minimum requirements, measured in feet, as shown in **Figure 38-2-11** based on classification of both intersecting streets. The distance is measured from the center of the intersection to the edge of the driveway apron closest to that intersection. These should be considered minimum values whereby longer distances may be required if justified by an engineering study and queuing analysis. Note that if access is along a highway under the authority of the New Mexico State Transportation Department, criteria in accordance with the State Access Management Manual, shall apply. In addition, minimum driveway spacing shall meet corner clearances and Intersection Sight Distance (see **Sec. 38-2.H. Clear Sight Triangle**).

g. Distances shall be measured from the inside edge of the pavement of each driveway or the edge of the intersecting street travel lanes.

h. No driveway shall be closer than ten feet from side property lines, except when serving adjacent properties.

i. When a property is at the corner of two streets, access shall be provided along the intersecting street with the lower classification. For example, if the property is at the intersection of a principle arterial and local street, access shall be from the local street unless access is approved by the Public Works Director on the street with the higher classification.

**Figure 38-2-11. Minimum Commercial Driveway Spacing by Intersection Type**




j. The location of driveways serving adjacent properties will be reviewed to ensure that they do not create conflicting traffic movements or pose sight distance problems for turning traffic. Where feasible, driveways that serve adjacent properties should be combined into one driveway. Developer must show, in plans, all existing or planned driveways on adjacent properties.

k. The access turning radii shall accommodate the turning radius of the largest design vehicle to routinely use the access. Pedestrian safety across the curb cut also needs to be considered for significantly wide access points. Coordination shall occur with Dial-a-Ride vehicles and other transit related functions to ensure that there is sufficient turning radii to support transit vehicles.

l. A 50-foot minimum turning radius shall be used for an access when combination trucks or single unit vehicles exceeding 30 feet in length are intended to use the access on a daily basis.

m. Construction of all driveways shall comply with the Design Standards and Standard Specifications for Road Construction within the Technical Manual as well as accessibility standards in place at time of building permit issuance.

n. The permittee is responsible for all costs associated with placement and/or removal of driveways accessing public right-of-way. This is to include restoration of existing landscaping, road surfacing, and sidewalk area.

o. Warrants for deceleration and acceleration lanes along with the associated design dimensions at driveway locations shall be in conformance with criteria from the New Mexico Department of Transportation's State Access Management Manual, current edition. The location and dimensions of such shared driveways shall be determined by the Public Works Director. The Public Works Director may require a study to demonstrate that a shared mutual access easement is required for the driveway based on the location and dimension of the proposed shared driveway.

b) Abandonment, Removal, and Restoration Requirements

i) Abandoned Driveways and Median Openings

If any vehicular crossing, other sidewalk crossing, or median opening is clearly abandoned as a crossing, or is no longer used for its intended purpose, any permit previously or hereafter granted for said crossing or median opening as such shall be subject to revocation by the Public Works Director with written justification, only after 60 calendar days written notice of such proposed revocation has been given to the owner of the property to which the crossing or median opening is appurtenant. The owner's name and address will be determined from the Assessor's Office of Doña Ana County. Written notice also will be given to the occupant of said premises, if any, if such occupant is other than the owner. It shall be sufficient notice under the provisions of this and the following section to mail said notices by certified mail with return receipt requested. In the event the name and address of the owner cannot be reasonably ascertained from the assessor's office, and the premises are unoccupied, it shall be sufficient notice to publish said notice in a newspaper of general circulation in the City of Las Cruces, once a week for four consecutive weeks.

a. For the purpose of this paragraph, a crossing or median opening is "clearly abandoned" if there has been no vehicular use of the driveway, crossing, or median opening for a period of at least 24 months.

ii) Removal and Restoration Requirements

In the event the Public Works Director has revoked any permit for a driveway, use of a sidewalk crossing or median opening under the provisions of **i)** above, due to changes taking place within said property, crossing or median opening shall be removed at the expense of the owner of the property. The written notice of revocation shall also set forth requirements for the removal and proper restoration of the curb, sidewalk or median opening. The time allowed for removal and restoration by the owner or occupant shall be 60 days after notice in the cases provided for in **i)** above; provided, however, that upon resolution duly passed by the City Council, that a traffic hazard exists at a nonconforming driveway or median opening which causes imminent danger to life and safety of property, then conformance may be required within a lesser period of time as set by the City Council, but in no event less than 30 days. Each day's delay of the owner in complying with such notice, after the expiration of the time specified, shall constitute a separate violation of this article. If conformance is not attained within the time allotted, the City may make the necessary removal and restoration and the cost thereof shall constitute a lien on said property in the amount of the cost of the required improvements.

10. Median Openings

The location of openings in a median, to allow left-turn ingress and egress movements at a driveway or local street, will be based on the type and operating speed of the roadway, the volume of traffic expected to make the left-turn movements, and the location relative to other intersecting streets, driveways, and median openings. All requests for median cuts or alterations shall be made at the time of request for a building permit, and shall be included on the construction plans.

a) Median Opening Priority

All median openings for City street intersections shall take priority over commercial access in determining location of median openings.

b) Analysis of Median Opening

i) To justify a new median opening, a traffic impact study that defines the ability of the roadway and the driveway to accommodate the opening shall be prepared by a professional engineer in the State of New Mexico, retained by the firm or individual requesting the median opening. The analysis shall include, but not be limited to, the following information:

a. The impact(s) to the operation of adjacent signalized and un-signalized intersections within 500 feet of the proposed opening shall be considered in the analysis.

b. Adequate sight distance requirements for intersections, based on AASHTO criteria.

c. Analysis of potential conflicting vehicular, pedestrian, and bicycle movements with recommendations for eliminating those conflicts.

ii) Shared access points for two or more adjacent individual parcels are required. Future development of adjacent parcels must be considered in determining the opening location.

c) Minimum Median Opening Design Standards

i) Minimum Spacing

A minimum median spacing of 300 feet from adjacent openings shall be required on all collector streets. On arterial streets, spacing shall be as shown in **Figure 38-2-12** if approved by the Public Works Director based on the Traffic Impact Analysis (TIA) Guidelines within the Technical Manual. The Public Works Director may require a study or Traffic Impact Analysis justifying the need. This distance shall be measured from face of curb to face to curb.

**Figure 38-2-12. Median Opening Spacing**

| Street Type | Min. Spacing |
|---|---|
| From Intersection with Arterial or Collector | 500 feet |
| All Other Openings | 300 feet |

a. The Public Works Director may reduce the 500-foot required spacing to allow openings as close as 300 feet to arterial or collectors, if justified.

ii) Taper Length

A minimum deceleration taper of 100 feet shall be required on all median openings.

iii) Storage Length

A minimum storage length of 60 feet shall be required on all median openings on City streets, unless the Public Works Director or findings from a prepared Traffic Impact Analysis require additional storage length.

iv) Commercial Access Requirements

For median openings to be considered for commercial access, the median opening must generate traffic, as demonstrated by a projected trip generation, of not less than 25 left-turn ingress or 25 egress vehicles during the peak hour.

d) Median Opening Approval

i) New median openings and associated left-turn storage may be approved by the Public Works Director upon receipt of a traffic impact study justifying the need for the median opening.

ii) Widening, relocating, or other alterations proposed to change or modify an existing median opening, for any reason, must be approved by the Public Works Director, and must meet the requirements outlined in

this section. All future median installations shall conform to this policy and shall be approved by the Public Works Director.

e) Construction Costs for Median Openings

i) The cost of constructing any of the following, for any reason, shall be paid by the party requesting the opening.

a. Constructing a new median opening for private access.

b. Widening, relocating or otherwise changing or altering an existing opening.

c. Constructing a new median opening for access to dedicated public right-of-way.

d. Constructing a new median opening for access to a new subdivision.

ii) All design, demolition, and construction costs are the responsibility of the party requesting the median opening.

f) Landscaping Consideration for Medians

Medians shall be landscaped in accordance with in **Sec. 38-7.D.2. Median and Public Area Landscaping**.

g) Construction Specifications

All construction of driveways or median openings permitted under this article shall be done in a manner as defined herein, and as per the Standard Specifications for Road Construction in the Technical Manual, as amended. All construction of driveways shall be at the expense of the owner of the abutting property, unless such construction is a part of a major City-funded capital improvement project and/or ADA/sidewalk maintenance program.

h) Abandonment, Removal, or Restoration

For abandonment, removal, or restoration, see **Sec. 38-2.F.9.b)** above.

## G. Traffic Impact Analysis

1. Purpose

   The purpose of a Traffic Impact Analysis (TIA) is to assess the effects of specific development activity on the existing and planned thoroughfare system of the City. The following addresses the requirements of the TIA relative to the proposed site.

2. Responsibility of TIA Preparation

   When required, the applicant shall submit at the applicant's expense a traffic study that assesses the traffic impacts associated with a proposed development. The TIA must be prepared under the direction of a Professional Engineer (P.E.) licensed in the State of New Mexico with experience in traffic engineering sufficient to assess traffic impacts. The TIA report shall be signed and sealed by the Professional Engineer.

3. Applicability/Determination of Need

   A TIA (or a Specific Traffic Study) shall be required for any development that meets the specific thresholds/ triggers or special situations identified in the table below. The table also lists specific scope requirements such as the minimum study area, issue(s) to be addressed and analysis years based on the type of study/TIA. Generally, a traffic study shall be required for any development expected to generate traffic volumes that will significantly impact the capacity or safety of the street system.

**Figure 38-2-13. Required TIA Type**

| | | Specific Traffic Study | Tier I TIA | Tier II TIA |
|---|---|---|---|---|
| Thresholds/Triggers and Special Situations[1] | Peak hour trips[2] | N/A | 50 – 99 Trips | 100 or more Trips |
| | Daily trips[2] | N/A | 500 -749 Trips | 750 or more Trips |
| | Special Situations | Refer to **Sec. 38-2.G.3.d) Special Circumstances** | Refer to **Sec. 38-2.G.3.d) Special Circumstances** | Refer to **Sec. 38-2.G.3.d) Special Circumstances** |
| Minimum Study Area/Issue(s) | | Specific issue(s)/concern(s) Identified during a TIA scoping meeting or required by the Public Works Director | Site access driveways | Site access driveways |
| | | | All Major intersections and/or roadways within affected areas (signalized or unsignalized) | All Major intersections and/or roadways within affected areas (signalized or unsignalized) |
| | | | All driveways/intersections where traffic movements could be affected by new driveway traffic movements | All driveways/intersections where traffic movements could be affected by new driveway traffic movements |
| | | | All signalized intersections and major unsignalized intersections within 1/4 mile | All signalized intersections and major unsignalized intersections within 1/2 mile |
| Analysis Years | | As determined during a TIA scoping meeting or required by the Public Works Director | Existing Year | Existing Year |
| | | | Opening Year, +5 yrs, +20 yrs[3] | Opening Year, +10 yrs, +20 yrs[3,4] |
| | | | Intermediate Year (Multi-phased development) | Intermediate Year (Multi-phased development) |

[1.] TIA is required if a development/project meets any of the thresholds or triggers.

[2.] Unadjusted total trip generation anticipated by the development/project per the latest editions of the ITE Trip Generation Manual. Phased projects must be evaluated as a whole assuming full build-out conditions for the purpose of determining the need for a TIA.

[3.] In case of fair share needed

[4.] Regional development

The following provides specific situations where a TIA shall be required:

a) Platting

   A TIA shall be required prior to approval of a Final Plat for a platting proposal when the expected vehicle trip generation exceeds the trip thresholds.

b) Annexation

A TIA shall be required when an annexation is requested by a private entity, and the trip generation of the fully developed land use scenario of the annexed land exceeds the peak hour trip thresholds. This requirement will be waived if the Thoroughfare Development Plan has adequately considered this traffic generation or if the City has initiated the annexation.

c) Building Permit, Driveway Permit, or Development Plan

A TIA shall be required for any building permit, driveway permit, or development plan if the project meets the requirements of **Figure 38-2-13. Required TIA Type**. This requirement includes permits for sites with existing driveways.

d) Special Circumstances

A TIA may be required for a development if the Public Works Director determines that one or more of the following conditions exist:

i) Any project that is located in the vicinity (within a 1/2-mile radius from the project site/limit) of any intersections that operates at a level of service (LOS) D or worse OR located on the congested corridors (LOS D or worse) OR the next major intersection after the adjacent roads and intersections operates at a LOS D or worse.

ii) Traffic generated from a non-residential development has a clear and obvious ingress or egress path-through adjacent residential neighborhoods.

iii) Traffic operational impacts are anticipated by the Public Works Director with a clear connection to the proposed development and identified in writing, such as problems with driveways, left or right turns, signal timing, median openings, or sight distance.

iv) Development requires a new median opening (refer to **Sec. 38-2.F.10.b) Analysis of Median Opening**).

v) The traffic generated by a new development will impact existing traffic problems on adjacent streets that have been documented by the Public Works Director.

vi) The internal street or access system is not anticipated to accommodate the expected traffic generation. This also applies to inadequate internal circulation for developments that create queuing of vehicles such as drive thru or long vehicles such as semi-tractor trailers.

vii) The Public Works Director may require an applicant to conduct a TIA if there is a reasonable expectation that the project may adversely affect pedestrian and/or cyclist safety within the study area.

e) Waiver

A request for waiver of the traffic study may be submitted to the City. The waiver letter must include sufficient information documenting the justification for the waiver. The Public Works Director will review the request and decide whether a waiver can be granted. If a waiver is granted, the applicant may still be required to mitigate impacts as determined by the Public Works Director.

f) TIA Update

Any previous TIA relating to a development shall be updated if the TIA was approved more than three years ago, changes to the development proposal have been made that affect trip generation or traffic patterns, and/or changes in background traffic conditions as determined by the Public Works Director. If an updated TIA is necessary, additional information will be required to:

i) Update changes in the proposed development,

ii) Update or refine assumptions made in a prior submittal,

iii) Provide specific information not available at the time of the previous submittal, and

iv) Provide any new mitigation measures needed and any previously identified mitigation measures that will need to be changed.

If an updated TIA is requested, the applicant may demonstrate the currency of the existing TIA using these four criteria.

4. TIA Mandatory Scoping Requirements

   a) Prior to beginning any study, the applicant and/or their transportation consultant shall contact the Public Works Director and/or other appropriate representatives from the affected agencies when interjurisdictional impacts are anticipated. This meeting is a mandatory pre-scoping meeting. The purpose of the mandatory pre-scoping meeting is to establish assumptions and the process of preparing the study.

   b) The Pre-Scoping Meeting Information Sheet in the Technical Manual for TIA shall be prepared and submitted to the Public Works Director at least ten (10) business working days prior to the pre-scoping meeting.

   c) Based on the agreements reached at the pre-scoping meeting, a scope of work shall be prepared by the applicant's transportation consultant and approved by the Public Works Director prior to commencement of the study.

5. Coordination With Other Public Agencies

   In situations where several agencies must approve a development/project or are responsible for affected roadways, the applicant must contact all agencies to determine issues to be addressed, scope of the study, etc.

6. TIA Requirements

   All TIAs and related studies shall be prepared as per the technical criteria set forth in the Technical Manual. The guidelines in the Technical Manual may be modified by the Public Works Director when unusual conditions indicate that such modification will provide an adequate and safe street network.

## H. Clear Sight Triangle

1. Applicability

   Roadways, including intersections, site entrances, and driveways shall comply with the latest AASHTO and NACTO standards and have sufficient visibility to allow motorists to easily travel and enter or exit safely, as well as protect pedestrians and bicyclists.

2. Clear Sight Triangle Required

   At any intersection of two roadways, a Clear Sight Triangle shall be provided for an unobstructed path of sight.

3. Prohibited and Permitted Objects

   a) This area shall be kept clear of any development, landscaping, signage, storage, fencing, or any other object that could impair a driver's view based on the latest AASHTO standards. Certain objects low enough to avoid impairing a driver's view may be permitted if in accordance with the latest AASHTO standards.

   b) An intersecting street or driveway may not be appropriate along a vertical curve when required sight distance from a side street or driveway is not attainable. If the Public Works Director determines that it is essential that a side street or driveway intersect an Arterial or Collector along a vertical curve, then it may be necessary to reduce the vertical curve so that the necessary sight distance is available.

   c) Objects that may be located in the Clear Sight Triangle include, but are not limited to, hydrants, utility poles, utility junction boxes, and traffic control devices, provided that these objects are located to minimize visual obstruction. Objects not exceeding 12 inches wide may be permitted by the Public Works Director.

   d) Any existing trees located within the Clear Sight Triangle will be allowed to remain if all branches are trimmed to a height of ten feet above the point where the pavement meets the edge of the gutter pan on the street immediately adjacent to the tree(s) in question.

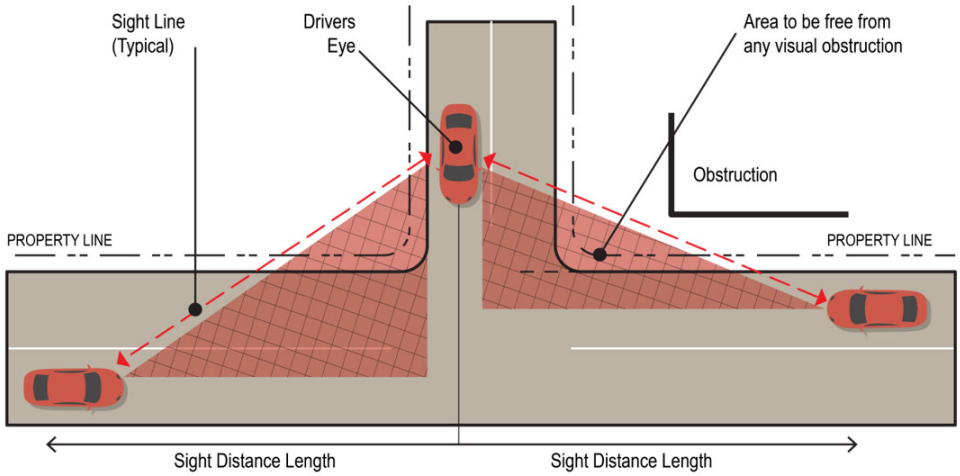
   e) No single post or column or combination of obstructions to view within the designated triangle shall exceed 12 inches in thickness at its greatest cross-section dimension.

4. Required Dimensions

   a) The Clear Sight Triangle shall be in accordance with the most current AASHTO Green Book guidelines.

   b) The Public Works Director may require larger Clear Sight Triangles than those based on AASHTO Standards in certain cases (e.g., unique intersections, steep grades) by documenting in writing the specific problems being mitigated.

   c) The Development Review Committee may allow an alternative configuration that remains compliant with AASHTO Green Book requirements for Clear Sight Triangle or other safety concern.




5. Required Site Plan Note

   The following note is required on all site plans: “Landscaping, signage, walls, fences, trees, and shrubbery between two feet and ten feet tall (as measured from the gutter pan) are not allowed within the clear sight triangle. Unique street and lot grades may require additional limitations within the clear sight triangle.”

## I. Streetlighting

1. Applicability

   All subdivisions and developments that significantly alter the street cross-section shall comply with the streetlighting provisions of this section. Streetlighting is necessary to provide illumination and other safety benefits for roadway users during nighttime hours. The City shall designate priority corridors and infill development areas to install streetlights in conformance with this section.

2. Purpose

   The purpose of streetlights is to provide drivers with quick, accurate, and comfortable visibility at night. Residents should realize that the streetlights are provided for traffic safety, not property or personal security. It is true that streetlights do provide some amount of security. This, however, is not their primary intent and streetlights shall not be installed for security reason alone. The following standards apply to all streetlighting to provide adequate illumination for development, minimize light pollution, and promote energy conservation.

3. General

   a) The subdivider/developer shall install streetlighting on all public and private streets.

b) All new streetlighting or any modification to existing street lighting shall meet the most current version of IES RP-8 requirements, as amended, or other prior approved standard. The following statement shall be added to all street lighting plans "This is to certify that the proposed street lighting system for (enter Project Name) complies with the street lighting standards and requirements set forth in the most current version of the Roadway Lighting ANSI/IES RP-8 standards as recommended by the Illuminating Engineering Society (IES)."

c) Streetlighting shall be installed at the locations listed below. Meters shall also be installed to accommodate the streetlighting and to accommodate for any proposed future phases or development.

d) The City will not maintain streetlighting within a private development(s).

e) All streetlighting fixtures, pole types, and hardware shall be selected from the City's Traffic Signal and Street Lightings Approved Product List.

f) All development should include an IES or other prior approved standard submittal to include digital submission of calculations including in the software format used.

4. Required Placement

a) Spacing for streetlights shall be determined by the requirements of IES. Mounting heights shall typically be 25 feet on residential streets and 35 feet arterials and nonresidential streets; however, additional lighting infrastructure may be required based on IES study.

b) The subdivider/developer shall install streetlights at all intersections, including three- and four-way intersections. The streetlight shall be as close to the corner as possible. The location of streetlights shall be based on the geometry of the roadways to include pedestrian crosswalks and sidewalk locations. For roundabouts, lighting is required and shall be approved by the Public Works Director.

c) A streetlight shall also be required at the beginning of turnarounds of cul-de-sacs based on IES RP-8 or other prior approved standard requirements.

d) The Public Works Director may waive or modify streetlight installation, placement, and spacing upon determination that an alternative configuration would be more desirable given the surrounding context (e.g., preservation areas, open spaces) or other site-specific features.

5. Installation and Maintenance Responsibility

a) The subdivider/developer shall install all service connections and streetlight poles for a subdivision/development. All wiring for streetlights shall be underground unless overhead wiring is approved by the City.

b) The subdivider/developer shall be responsible for the maintenance and cost of electricity to power the streetlights until such lights are accepted by the City.

c) Easements shall be shown on the subdivision plat for all electrical service.

d) Limited Access Facilities

i) The City shall be responsible for lighting major streets going over or under a freeway that has been approved by the City. The City shall pay the monthly power bill for these lights.

ii) The City is not responsible for the necessary lighting of structures or interchanges intersecting with local streets.

iii) The City may install streetlights at the intersection of local streets with frontage roads. The freeway frontage road is deemed to terminate at its approach to an off-ramp and begin at its connection to an on-ramp.

6. Streetlighting Requests

a) All streetlighting shall comply with IES RP-8 or other prior approved standard requirements.

b) Any request to relocate an existing City-owned streetlight must be pre-approved by the Public Works Director prior to construction and will be relocated at the requesters' expense. All electrical work shall be performed by an electrician licensed in the State of New Mexico working under a New Mexico licensed electrical contractor. All work shall comply with the City standards, NEC and MUTCD, and shall be coordinated with the City of Las Cruces Traffic Engineering section.

c) Subdivisions that were approved/planned to be exempted from lighting installation shall be reviewed at time of full street reconstruction only, or at the cost of the requestors/area being affected.

d) All lighting designs, pole designs, luminaire designs, and location of poles for all street lighting shall be approved by the Public Works Director.

e) When considering streetlighting requests, the Public Works Director will consider the following factors and thresholds:

i) Adjacent Land Uses

a. Proximity to schools, parks, large community centers, places of worship, and other civic facilities;

b. Upon petition of local residents and/or property owners; and

c. Other locations where a study demonstrates a need.

ii) Coordination of Activities

a. Coordination of street lighting installation with full reconstruction activities.

iii) Arterial Streets

a. Street lighting may be installed along arterial streets when traffic volumes, nighttime crashes, nighttime pedestrian use, and/or roadway hazards show a need for improved lighting.

b. Minimum warrant considerations for arterial streets would be an average daily traffic in excess of 10,000 vehicles, and an 85$^{th}$ percentile speed of 40 miles per hour, or greater based on an engineering study.

iv) Collector Streets

a. Street lighting may be installed along collector streets when traffic volumes, nighttime crashes, nighttime pedestrian use, and/or roadway hazards show a need for improved lighting.

b. Minimum warrant considerations for collector streets would be an average daily traffic in excess of 5,000 vehicles, and an 85$^{th}$ percentile speed of 35 miles per hour or greater, based on an engineering study.

v) Local Streets

a. Street lighting may be installed along local streets when traffic volumes, nighttime crashes, nighttime pedestrian use, and/or roadway hazards show a need for improved lighting.

7. Underground Light Circuits for Subdivisions and Other Developments

a) In existing subdivisions/developments where all utilities are presently placed underground and no streetlights exist, the City is responsible for the installation of underground streetlight circuits.

b) In new subdivisions/developments, all street lighting shall be installed by the subdivider concurrently with other associated infrastructure improvements.

c) In subdivisions/developments where utilities exist overhead and the property owners choose to place these overhead utilities underground, the property owners will be responsible for underground streetlight circuit installation.

d) In new subdivisions/developments, all streetlight circuits are to be placed underground.

e) All new streetlights and associated components shall meet City lighting specifications.

f) Any existing street lighting systems annexed into the City shall be subject to review for compliance with applicable electrical standards. Failure to meet the requirements of those standards could result in possible condemnation; and lighting that does not meet the standards may be scheduled to be replaced with City standard streetlights as funds become available.

8. Street Lighting Location

a) Improved Streets

i) Consideration must be given to the effect pole placements have on abutting properties. In view of this, the City will make a reasonable concession in a lighting pattern to avoid placing a pole at a point where it would have a detrimental effect on the abutting property. The City's intent is to focus such concessions primarily on residential properties. In most cases, the pole should be located within the right of way adjacent to the property line, but more importantly lateral placement should conform to the specifications of both streetlight pole and light head design without hindering the safety impacts of lighting based on IES requirements.

ii) Once the permit to use the right-of-way is issued, adherence to approved pole locations is expected.

iii) Street lighting shall be installed on a cul-de-sac street/local street intersection based on IES RP-8 requirements.

iv) Streetlight placement shall not obstruct the visibility of new or existing street signs and shall not interfere with pedestrian use of the ADA ramps, sidewalks, driveways, multi-use paths, or utility infrastructure. Sidewalks shall remain free of obstructions in compliance with the Americans with Disabilities Act.

b) New Street Construction

i) A set of drawings of proposed street construction shall be submitted to the Community Development Department for the purpose of locating streetlights. One set of drawings, showing streetlight locations and power sources, shall be submitted to El Paso Electric Company by subdivision developer, along with installation information and instructions, if the City is permitting a connection to an existing flat-rate circuit. All efforts will be made to avoid conflicts and duplications, and to coordinate construction efforts.

ii) Preliminary plans for local and collector streets will show an accurate survey tie to all poles (i.e., stationing and offsets) and plans for new construction should show utility easements.

iii) All plans will be reviewed by the City for proposed paving width and alignment, prior to submittal to the individual utility companies.

9. Streetlight Procedures for New Subdivisions

a) Preliminary Review

The developer, or a representative, shall submit to the Community Development Department section a master utility plan of a proposed subdivision, showing the electrical utility location runs and service points, either underground or above ground. The master utility plan shall contain location of all utility lines (gas, water, sewer, fire hydrants, street lighting, etc.), and location, botanical and common name, and mature size of trees and shrubs in the parkways and medians to be retained as part of the final parkway and median landscape plan. The Community Development Department shall review the plan for streetlight locations, and connecting conduit runs to electrical service points. The plan shall be returned to the developer with any comments, for review by the developer's registered New Mexico professional engineer. Upon satisfactory acceptance of the changes by City staff, said changes then shall be incorporated into the construction plans.

b) Developer Responsibility

The developer shall be required to construct the entire streetlight system within the Arterial, Collector, and Local street system at the time of roadway construction. This includes, but is not limited to, all underground connecting conduits, wires, concrete foundations, poles, luminaries, fuses, fuse holders, ground rods, pull

boxes, electrical service and controls, and lighting control systems. Costs associated with installing light standards/luminaires, wiring, and service meters associated with lighting on designated collectors or arterials as part of the new development will be shared equally between developer and the City of Las Cruces. All streetlights and associated components shall comply with the City traffic standards and applicable electrical codes. All electrical work shall be performed by a journeyman electrician licensed in the State of New Mexico working under a New Mexico licensed electrical contractor. All lighting shall be metered and planned to serve a large area of land to be developed to the extent possible.

c) City Responsibility

Upon request from the developer, the Public Works Director shall provide the bolt circle template for streetlight foundations, as shown on the approved construction drawings.

d) Contractor/Developer Information Contact

For information concerning the below items, the contractor is to contact the designated Public Works project manager, who will consult with Transportation Department/Streets/Traffic Operations personnel, as needed:

i) Information concerning design specifications.

ii) Any conflict of streetlight locations, requiring relocation as a solution.

iii) Any changes or rerouting of conduit runs.

iv) Request for additional streetlights, within the scope of **6. Streetlighting Requests** above.

v) Request to omit a streetlight, as shown on the plans.

vi) All other items concerning streetlights that are not shown above.

## J. Traffic Signals, Traffic Control Signs, Street Lights, and/or Roadways

1. All new or modified traffic control devices within City right-of-way or any off-street parking areas shall meet MUTCD requirements and receive approval by the Public Works Director.
2. Relocation of City Streetlight, Signal, or Sign
   a) Any request to relocate an existing City-owned streetlight, traffic signal, or traffic control sign must be approved by the Public Works Director prior to construction, and will be relocated, upon receipt of permission, at the requesters' expense. At the City's option, the City may move the streetlight, traffic signal, or traffic control sign and be reimbursed by the requestor.
   b) All sign work shall be performed by a qualified signs and markings technician holding an International Municipal Signal Association (IMSA) level one or better certification or a pre-approved certification equivalent to IMSA.
   c) All signal work shall be performed by a qualified traffic signal technician holding an IMSA level two or better certification or a pre-approved certification equivalent to IMSA.
   d) All electrical work shall be performed by a journeyman electrician, licensed in the State of New Mexico, working under a New Mexico licensed electrical contractor.
   e) All work shall comply with the City standards and specifications, National Electrical Code and Manual on Uniform Traffic Control Devices and shall be coordinated with the Public Works Department.
3. When new development increases the traffic volumes on an existing signalized or non-signalized intersection, the following actions may be required:
   a) A non-signalized intersection may have to be signalized.
   b) An existing signalized intersection may have to be modified.
   c) A signalized or non-signalized intersection's geometry may have to be modified.

d) The intersection may have to be reconstructed.

4. The signal maintenance shall be the responsibility of the City.
5. When new development or increased land use density increases the traffic volumes on an existing roadway, the following actions may be required:
   a) The roadway may need to be reconstructed.
   b) The roadway may need to be widened.
   c) Additional turn lanes may need to be constructed.
   d) Additional roadways for ingress/egress may need to be constructed.
6. If a modification to an intersection or roadway is required, the permittee will be required to provide all or a portion of the funding for the improvements. The funding requirements shall be determined by the Public Works Director and will generally be a pro-rata share based on additional traffic loading being proposed.
7. Acceptable construction of all roadway or intersection modifications must be constructed before the development's acceptance by the City.
8. A traffic signal warrant study per the Manual of Uniform on Traffic Control Devices (MUTCD) performed by a New Mexico registered professional engineer shall be required when the traffic impact analysis shows a drop in level of service below "B" on an intersection and/or intersections.
9. The City shall review the traffic impact analysis and the traffic signal warrant study to determine if a signal and/or modification to the roadway system is required.

## K. Audible Pedestrian Traffic Signals

Audible pedestrian signals shall be installed based on MUTCD requirements, ADAAG, and FHWA as part of the traffic signal equipment.

## L. Placement of Traffic Control Devices

1. The most current edition of the MUTCD shall govern the use and placement of traffic control devices, whether temporary or permanent, within the right-of-way.
2. All traffic control devices shall be installed complete and in place before any street or road is opened to public access. All traffic control devices shall be installed by a qualified signs and markings technician holding an IMSA Sign Level I or better certification (or a pre-approved certification equivalent to IMSA).
3. An approved traffic control plan for establishing temporary traffic control is required for any agency or qualified persons working within or next to any driving lane, sidewalk, multi-use path or at any other place that would impede the movement of other pedestrians or vehicles within the right-of-way. This includes but not limited to, any work that requires the use of any kind of traffic control devices such as cones, barrels, channeling devices, barricades, etc., being placed within the right-of-way.
4. All temporary traffic control devices shall be furnished, erected, and maintained by the contractor or qualified responsible party. All traffic control devices shall only be erected and maintained by a qualified person certified in work zone safety (or a pre-approved certification equivalent to IMSA).
5. A traffic control plan shall be submitted to the Public Works Department through the formal plan review process prior to placement on any street under City jurisdiction. All plans shall comply with the most current edition of the MUTCD indicating dates, times and duration of work, traffic devices to be used, placement of devices, and the order that devices are to be placed and removed. Traffic control devices shall maintain ADA accessibility and ensure that pedestrian and bicycle safety and access is maintained per MUTCD and federal guidelines. An approved traffic control plan is required before any part of the public right-of-way is blocked or any traffic control device is placed within the right-of-way (this includes all traffic, vehicular, pedestrian, bikes, etc.) The approved

traffic control plan must remain on-site or be immediately available and presented to Public Works staff for review to ensure the work zone is set up per plan. An emergency contact number for the contractor must also be provided. Failure to comply with this requirement may result in work stoppage, removal of traffic devices at the violators' expense, and citations per **Sec. 34-1.H. Violations and Enforcement** and applicable Las Cruces Municipal Code.

6. Any request to install or relocate an existing City traffic control device must be pre-approved by the Public Works Director prior to construction and will be at the requesters' expense. All sign work shall be performed by a qualified signs and markings technician holding an IMSA Level I certification or better (or a pre-approved certification equivalent to IMSA).

   a) Temporary Traffic Control Devices: All traffic control plans for placement of temporary traffic control devices within City right-of-way are required to be submitted to the Public Works Department for approval. Traffic control plans shall include, but not be limited to, the following information:

      i) Spacing of appropriate signage shown in feet.

      ii) Calculation of taper lengths per the MUTCD.

      iii) Sign code references per the MUTCD.

      iv) Phasing of traffic control placement, as necessary.

      v) Dates and times of day for short-duration lane closures of ten working days or less.

      Contractors are required to adhere to the approved traffic control plan regarding setup and duration of lane closure(s).

   b) Permanent Traffic Control Devices: In private developments, placement of all new signage and/or markings shall be the responsibility of the developer or owner. Placement shall be in accordance with the submitted sign plan as approved by the Public Works Director. Maintenance of signage in private developments open to the public shall be maintained by the property owner. Property owners are responsible for ensuring ongoing maintenance of private streets, including streetlighting, traffic controls, and other related features.

## M. Sidewalks and Multi-Use Paths

1. Applicability

   Sidewalks or multi-use paths shall be installed on all designated access easements, public and private streets for new development and shall include curb and gutter infrastructure. Sidewalks or multi-use paths shall also be installed on property on which a Building Permit is being issued that requires a Certificate of Occupancy.

2. Purpose

   The purpose of this section is to improve the safety of residents by providing a separation between vehicles and sidewalk users, such as pedestrians or people with disabilities. In addition, sidewalks and multi-use paths promote physical activity for residents, especially when constructed with a parkway that includes street trees. Sidewalks and multi-use paths are an important mode of transportation for commuting and for recreational use.

3. General

   The following standards and requirements shall apply to sidewalks and multi-use paths in the City.

   a) Sidewalks or multi-use paths shall be provided along all new roadways in accordance with **Figure 38-2-1. Roadway Cross-Sections** and shall comply with the Construction Standards within the Technical Manual and the latest addition of the United States Access Board's Public Right-of-Way Accessibility Guidelines (PROWAG) standards.

   b) Site development shall provide for multimodal access between the right-of-way and the development.

   c) All sidewalks and multi-use paths shall provide a minimum clear path width in accordance with the following:

i) The minimum width of all sidewalks shall be 5 feet..

ii) For multi-use paths, there shall be a minimum clear path of 8 feet for all streets. For any transit or bus stops, there shall be a minimum clear path of 8 feet that is perpendicular to the curb to allow for ADA accessibility.

iii) If a bus shelter is located at a stop, there should be a minimum of 20 feet along the length of the sidewalk that is a minimum of 8 feet wide.

d) Multi-use paths shall be concrete for the portion where any driveways are located.

e) Curb ramps shall be provided within a street right-of-way wherever an accessible route for pedestrians (sidewalk or pedestrian way) is required. The design and construction of curb ramps shall be in accordance with federal and state accessibility standards.

4. The Development Review Committee may require sidewalks or multi-use paths to be wider than required by **Figure 38-2-1. Roadway Cross-Sections** for developments with higher densities, pedestrian-oriented developments, or other areas with high pedestrian traffic.

5. The Development Review Committee may modify the requirements for sidewalks on individual streets or within subdivisions based on the following criteria.

a) Limited, confined infill in existing, developed single-family residential neighborhoods where sidewalks or multi-use paths are not present and have not historically been provided.

b) On local streets within an approved subdivision where all the lots provide a minimum one-half acre lot area, and the adjoining properties have no sidewalks.

c) On local streets where pedestrian access is provided within the approved subdivision through an alternative sidewalk design not installed within the street right-of-way; provided, however, that an easement may be required to provide for the installation of traffic signage and signalization, utility services, or other similar facilities.

6. Timing for Sidewalk and Multi-Use Path Construction

The timing of sidewalk and multi-use path construction shall be as required by this section unless a development agreement between the property owner and the City provides for alternative timing for construction and security has been provided in accordance with this section and **Sec. 37-4.C.1.a)**.

a) New Subdivisions

i) For new arterials or collectors, sidewalks, multi-use paths, hike and bike trails, and curb ramps shall be installed by the subdivider at the time of road construction.

a. In no case will a Building Permit be issued until sidewalks and multi-use paths are completed along arterial and collector streets, in accordance with **Sec. 37-4.D. Substantial Completion**.

ii) For new Local streets, sidewalks, multi-use paths, hike and bike trails, and curb ramps must be installed by the builder at the time of Building Permit construction. Sidewalks must be installed prior to issuance of a Certificate of Occupancy. If the lot is not developed within three years, then the current property owner is required to install the sidewalk on the property to eliminate sidewalk gaps. Sidewalk behind rollover curb to be installed by developer at the time of subdivision.

b) Existing Developments

i) For existing developments, sidewalks or multi-use paths must be installed prior to issuance of a Certificate of Occupancy.

a. Existing sidewalks may be utilized if they are at least four feet in width, ADA-compliant, in good condition, and connect to other existing sidewalks of the same width.

b. New sidewalks must be installed if existing sidewalks are in disrepair and no longer safe for usage by pedestrians or people with disabilities.

ii) When a new sidewalk is installed crossing a driveway that is no longer in use, the unused driveway shall also be removed. See **Sec. 38-2.F.9.b) Abandonment, Removal, and Restoration Requirements**.

## N. Off-Street Parking

1. Applicability

a) New Development

All new development shall provide off-street vehicular parking, bicycle parking, and loading areas in accordance with the standards of this section unless exempted by **N.4.a)i)** below.

b) Addition or Expansion

i) If an existing structure or use is expanded or enlarged (in terms of the number of dwelling units, floor area, number of employees, or seating capacity), any additional off-street vehicular parking and loading spaces that may be required for the expanded or enlarged part of the structure or use shall be provided in accordance with the requirements of this section.

ii) If an existing structure or use is expanded or enlarged (in terms of the number of dwelling units, floor area, number of employees, or seating capacity), any required bicycle parking for the entire structure or use shall be provided in accordance with the requirements of this section.

c) Change in Use

Any change in use of an existing structure or land shall be accompanied by the provision of any additional off-street vehicular parking, bicycle parking, and loading spaces required for the new use unless accommodated by **4.c) Off-Street Parking Alternatives and Reductions** below or another mechanism within this Development Code.

2. Purpose

The purpose of this section is to:

a) Ensure that off-street vehicle parking, bicycle parking, loading, and access demands associated with new development are met within the context of surrounding land uses and neighborhoods;

b) Allow flexibility in addressing vehicle parking, loading, and access issues by presenting a menu of strategies to address parking issues rather than only parking space requirements;

c) Ensure that off-street parking, loading, and access demands associated with new development are met without adversely impacting surrounding land uses and neighborhoods;

d) Accommodate safe and convenient movement of vehicles, bicycles, pedestrians, and transit.

3. Parking Plan Required

a) Applications for development shall include a parking plan, which shall accurately designate the number and location of required parking spaces, access aisles, and driveways, and the relation of the vehicular off-street parking facilities and bicycle parking facilities (if applicable) to the development they are designed to serve, including how the parking facilities coordinate with the vehicular, pedestrian, and bicycle circulation systems for the development.

i) The Community Development Director may waive this submittal requirement if the Director determines that a parking plan is not necessary to demonstrate the proposed development's compliance with the standards in this section based on the size and configuration of existing parking and loading areas on the site. Multimodal circulation and impacts and infrastructure improvements will need to be addressed via a TIA at the discretion of the Public Works Director.

b) Site plans shall specify the proposed land uses before a building permit will be issued. A revised site plan will be required if revised land uses require additional parking that cannot be accommodated through **4.c) Off-Street Parking Alternatives and Reductions** below.

4. Minimum Off-Street Vehicular Parking Requirements

a) Required Off-Street Parking Spaces

Development shall provide at least the number of off-street vehicular parking spaces required by **Figure 36-3-2. Permitted Use Chart**, based on the proposed use(s), subject to **c) Off-Street Parking Alternatives and Reductions**.

i) Exception: No off-street vehicle parking is required in the following areas due to the reduced automobile use associated with pedestrian-oriented, mixed-use developments:

a. DDC, Downtown Development Code

b. MXCO, Mixed Use Corridor Overlay District

c. TCO, Town Center Overlay District

d. NCO, Neighborhood Center Overlay District

e. Urban Character Area

b) Calculation of Requirements

i) Fractions

When calculation of the number of required spaces results in a fractional number, any fraction of 0.5 or greater shall be rounded up to the next higher whole number and any fraction of less than 0.5 shall be rounded down to the lower whole number.

ii) Area Measurements

All square-footage-based parking and loading requirements shall be computed on the basis of gross floor area of the subject use. For the purposes of parking calculations, the gross area of any parking garage within a building shall not be included within the gross floor area of the building.

iii) Parking and Loading for Multiple Uses

Lots containing more than one use shall provide parking and loading in an amount equal to the total of the requirements for all uses unless reduced through a shared parking agreement or other provision within this Code.

a. Note that some combined uses (e.g., Shopping Center or Mixed-Use) are defined uses in **Figure 36-3-2. Permitted Use Chart** and include established parking ratios or other methods of calculation.

iv) Parking and Loading for Unlisted Uses

For uses not expressly listed in **Figure 36-3-2. Permitted Use Chart**, the Community Development Director is authorized to:

a. Apply the off-street parking space requirement specified for the listed use that is deemed most similar to the proposed use (based on operating characteristics, the most similar related occupancy classification, or other factors determined by the Director);

b. Establish the off-street parking space requirement by reference to parking resources published by the Institute of Traffic Engineers (ITE) or another acceptable source of parking demand data; or

c. Establish the off-street parking space and loading requirements based on a parking and loading demand study prepared by the applicant according to **v)** below.

v) Discretionary Requirement Based on Demand Study

Uses that reference this subsection in **Figure 36-3-2. Permitted Use Chart** have widely varying parking and loading demand characteristics, making it difficult to specify a single off-street parking or loading standard. Upon receiving an application for a use subject to this subsection, the Community Development Director shall apply the off-street parking and loading standards on the basis of a parking and loading demand study prepared by the applicant. Such a study shall estimate parking demand for the proposed use based on the recommendations of the Institute of Traffic Engineers (ITE), Urban Land Institute, the International Council of Shopping Centers, the American Planning Association, or other acceptable source of parking demand data for uses and/or combinations of uses of comparable activities, scale, bulk, area, and location.

c) Off-Street Parking Alternatives and Reductions

i) Approval of Parking Alternatives

The following provisions are methods to reduce the number, size, and/or square footage of area required for on-site vehicle parking. Bicycle parking must be provided as required by **Figure 36-3-2. Permitted Use Chart**. These methods cannot be applied to any provision regarding parking for persons with disabilities, unless no off-street parking is provided.

The Community Development Director may approve parking alternatives to the off-street parking spaces required by **Figure 36-3-2. Permitted Use Chart** in accordance with one or more of the standards in this section.

ii) Shared and Joint Use of Parking Areas

When a mix of uses are located on one site or adjacent properties, applicants shall seek shared parking agreements to reduce the amount of required parking.

a. These agreements shall be approved as to form and content by the City Attorney and Community Development Director and must be referenced on the Final Plat, Site Plan, and/or Certificate of Occupancy.

b. Agreements may be made with adjoining property owners regardless of the hours of operation of the adjoining uses.

c. In combining parking requirements, a minimum of 75 percent of the required off-street parking for all uses shall be met.

d. Adequate and safe pedestrian access by a walkway protected by a landscape buffer or a curb separation and elevation from the street grade shall be provided between the shared parking areas and the primary pedestrian entrances to the uses served by the shared parking.

e. Signage shall be provided to direct the public to the shared parking spaces.

f. An agreement for shared and joint use of parking areas shall become null and void if there is a change in the land uses that are covered by the agreement, platting, or re-platting of the land. In these instances, a new agreement shall be required.

iii) Off-Site Parking

a. Up to 40 percent of the required parking spaces may be provided on property separate from the property served, provided all of the separate parking is within 500 feet from the property served, as measured along the pedestrian path.

i. Required accessible spaces must be provided off-street and on-site.

b. Adequate, safe, and well-lit pedestrian access shall be provided between the off-site vehicular parking area and the primary pedestrian entrances to the use served by the off-site parking.

c. A parking agreement ensuring that the allowed off-street parking is required for the life of the land use shall be properly executed by all the separate property owners, approved as to content and form by the

City Attorney and the Community Development Director, referenced on the Final Plat, Site Plan, and/or Certificate of Occupancy, and submitted to the Community Development Director.

iv) On-Street Parking

In areas where on-street parking is permissible and verified by the Public Works Director, this parking can be used for up to 25 percent of the required parking of a use provided that the on-street parking is within the area of the property on which the use is located. Required accessible spaces must be provided off-street and on-site.

v) Parking Structure

A 20 percent reduction in the total number of required parking spaces will be granted if the required parking is provided in a parking structure that is two stories or more.

vi) Bicycle Parking Spaces

a. Bicycle parking facilities shall meet the design standards found in the Technical Manual and **Sec. 38-2.N.5** below.

b. Bicycle Racks: One motor vehicle parking space can be replaced with four bicycle rack spaces or other approved bicycle parking facilities. This option can be used for not more than 50 percent of the vehicular parking spaces.

c. Bicycle Lockers: One motor vehicle parking space can be replaced with two bicycle locker spaces. This option can be used for up to seven vehicle spaces or not more than 15 percent of the vehicular parking spaces, whichever is less.

5. Bicycle Parking Standards

a) Minimum Required Bicycle Parking

i) Bicycle parking spaces are required in all zoning and overlay districts for the following:

a. New development; and

b. Any individual expansion or alteration of a building existing prior to the effective date of this ordinance if the expansion increases the building's gross floor area by 50 percent or more, or the alteration involves 50 percent or more of the building's gross floor area (including interior alterations).

ii) The amount of parking shall be provided in accordance with **Figure 36-3-2. Permitted Use Chart**, based on the development's principal use(s).

b) General Bicycle Parking Standards

Required off-street bicycle parking spaces shall be provided with bike racks, bike lockers, or similar parking facilities that comply with the following standards:

i) Located on the property in a way that provides the optimum security for the bicycles;

ii) Located on a paved or similar hard, all-weather surface, having a slope not greater than three percent;

iii) Well-lit and accessible to the public or bicyclists after dark;

iv) Does not interfere with pedestrian or bicycle traffic;

v) Identified with adequate signs and striping;

vi) Protected from conflicts with vehicular traffic;

vii) Located as near as practicable to the main entrance of the building they are intended to serve; however, directional signage shall be provided where a bicycle parking space is not visible from a main entrance to the building for which the bicycle parking space is required; and

viii) Designed in accordance with the Technical Manual.

6. General Standards for Off-Street Vehicular Parking and Loading Areas

a) Size of Parking Spaces and Driving Aisles

The minimum dimensional requirements for parking stalls and driving aisles are shown in **Figure 38-2-14. Minimum Dimensional Requirements for Parking Stalls and Driving Aisles**. Twenty-seven feet is the minimum two-way driving aisle width, including non-dedicated streets or private drives, when there is no parking on both sides of the driving aisle. Twelve feet is the minimum width for a one-way driving aisle. The City Fire Department may require wider driving aisles whenever necessary to address fire and safety concerns as addressed in the International Fire Code, as amended.

**Figure 38-2-14. Minimum Dimensional Requirements for Parking Stalls and Driving Aisles**

| Parking Angle | Stall Width | Stall Length | Stall Base | Stall Depth | Width of One-Way Aisle | Width of Two-Way Aisle |
|---|---|---|---|---|---|---|
| 30 degrees | 9′ | 19′ | 18′ | 17.3′ | 12′ | 27′ |
| 45 degrees | 9′ | 19′ | 12.7′ | 19.8′ | 13′ | 27′ |
| 60 degrees | 9′ | 19′ | 10.4′ | 21′ | 18′ | 27′ |
| 90 degrees | 9′ | 19′ | 9′ | 19′ | 27′ | 27′ |
| 0 degrees (parallel) | 9′ | 22′ | 22′ | 9′ | 12′ | 27′ |

NOTES:

Driving/back-up aisles are not required for one single-family dwelling per lot or one duplex per lot. All other land uses shall provide driving aisles when parking stalls are required.

All angle parking, except 90 degree and parallel parking shall have aisles designed for one-way traffic flow only, except that two-way traffic is permitted in designs approved by the Community Development Director.

All parking lot designs shall have primary ingress and egress to a public street or access easement. Secondary access only may be to an alley. However, access to or from an alley and parking lot is permitted if 1 to 4 dwelling units are located on property that abuts the alley. Primary ingress/egress to an alley is permitted for properties with 1 to 4 dwelling units.

Except for single-family or two-family dwelling units, parking and loading areas shall be arranged so that vehicles will not be required to back out of parking or loading spaces directly into a public way. Circulation within a parking lot shall be designed to minimize aisles with one inlet/outlet. Aisles with only one inlet/outlet shall provide “back outs” for end spaces.

Land uses that involve the servicing of motor vehicles shall not service vehicles in the required parking stalls.

i) Compact Vehicle Parking

a. Up to 10 percent of the total number of required parking spaces may be used for compact vehicle parking; provided, that the total number of required off-street parking spaces is provided on site.

b. Compact parking spaces shall be 8 feet wide by 18 feet long for 90-degree parking or the equivalent dimensions required for an angle space to maintain the 8-foot by 18-foot rectangle.

c. Compact spaces shall be clearly signed and marked “Compact Only.”

ii) Gas Pump Islands

a. Gas pump islands designed to accommodate two or more vehicles on each side: A minimum of 24 feet (perpendicular) shall be provided between gas pump islands, islands and buildings, curbs, other types of driving aisle obstructions, and between the back of parking spaces and the end of the gas pump vehicle space. (Distance may be reduced to 18 feet between parking spaces and pump vehicle spaces if one-way and angle parking.)

b. Gas pump islands designed for one vehicle on each side: A minimum of 18 feet (perpendicular) shall be provided. (24 feet required between parking spaces and pump vehicle spaces unless one-way and angle parking.)

c. Diesel pump islands for tractor-trailer trucks only; no automobiles or recreational vehicles will use these pumps. A site plan shall show diesel pumps spaced at least 17 feet, center-to-center distance, with a minimum of 14 feet of one-way driving clearance between pump islands.

iii) Electric Vehicle Charging Stations

Electric Vehicle (EV) charging stations may be located beyond the wheelstop, in landscape areas, or in another location that does not block a pedestrian, bicycle, or vehicular accessway.

b) Parking Spaces for Persons with Disabilities

Parking spaces for persons with physical disabilities shall comply with federal and state requirements, and the Technical Manual. Such a place shall be designated by a conspicuously posted sign bearing the international sign of accessibility.

c) Landscaping

For parking lot landscaping requirements, see **Sec. 38-7.D.5. Parking Lot Landscaping**.

d) Construction and Maintenance of Parking Areas

i) Single-Family Homes, Townhouses, and Duplex, Triplex, or Quadplex Developments

Crushed stone or crusher fines is the minimum surface that may be used for driveways or parking areas for single-structure Single-Family Homes, Townhouses, and Duplex, Triplex, or Quadplex developments on one lot.

ii) All Other Developments

a. Surfacing Requirements

All vehicular use areas must be surfaced with one of the following materials:

i. Pervious and impervious asphaltic concrete;

ii. Pervious and impervious cement concrete;

iii. A penetration treatment of bituminous material and seal coat of bituminous binder and mineral aggregate; or,

iv. Alternative surfacing as determined appropriate by the Fire Marshal and Public Works Director.

The surface must be maintained in a smooth, durable, and well-drained condition and be kept clear of debris or other accumulated refuse.

b. Striping

Parking spaces, back-up aisle, loading areas, entrances, exits, and clear sight triangles shall be appropriately marked to indicate their location.

c. Landscaping and Irrigation

Landscaping and an irrigation system in compliance with **Sec. 38-7. Landscaping** will be required with the installation of a parking area.

d. Drainage

Drainage shall comply with **Sec. 38-3. Drainage and Flood Control** and all other City regulations. Excess flow and volume shall be detained or retained on site. The installation of a parking area may require a drainage facility.

e) Requirements for Lots with More than 50 Parking Spaces

i) Parking Location

No more than 50 percent of off-street parking may be located between the front facade and a public street unless outlots are present.

ii) Sub-Lots and Pedestrianways

a. Large surface parking lots shall be visually and functionally segmented into several smaller sub-lots by landscaped areas. Each sub-lot shall contain a maximum of 50 parking spaces. An additional 50 parking spaces are allowed per sub-lot if the landscaped area and associated plantings exceeds the minimum established in **Sec. 38-7.D.5. Parking Lot Landscaping** by at least 20 percent.

b. For every parking sub-lot, a landscaped median/divider at least 15 feet wide shall be installed to break up the sub-lots. These medians shall contain pedestrian accessways to offer safe, marked routes between parking spaces and building entries.

iii) Pedestrian Circulation

An internal pedestrian accessway, at least six feet in width and ADA accessible, must be provided from the perimeter sidewalk to the primary public entrance. Internal pedestrian walkways must be distinguished from driving surfaces by textured, painted, and/or raised surface.

iv) Additional Landscaping

Up to a 10 percent reduction in the required number of parking spaces will be allowed if additional shade trees are provided beyond the requirements of **Sec. 38-7.D.5. Parking Lot Landscaping**. Each parking space eliminated through this option shall be replaced with a minimum of two trees.

f) Tandem Parking Spaces

Tandem parking provides for two or more parking spaces, one behind the other, where access to one parked vehicle can only be gained through the abutting space. Tandem parking can be utilized for no more than 50 percent of all required parking spaces. Tandem parking shall only be utilized for specific, property owner-/manager-controlled cases such as:

i) Residential parking, when both spaces are designated for a single dwelling unit;

ii) Employee parking;

iii) Company-owned vehicles; or

iv) Controlled parking situations (funeral homes, sporting events, car rental or truck agencies).

g) Parking and Storage of Large Motor Vehicles

Subsections **g)i)** through **g)vi)** below apply to all areas other than the Rural Character Area.

i) Parking and storage areas for any motor vehicle or its appurtenances, including the necessary driveways to get to and from the parking and storage areas, shall not cover more than one-half of any open area between the front, including the secondary front, of the main dwelling and the front property line in a single-family or duplex property,

a. Exception: In the case of a lot on a cul-de-sac, up to two-thirds of any open area between the front of the main dwelling and the front property line may be used.

ii) Townhouse lots may use up to three-fourths of any open area between the front, including the secondary front, of a building or structure and the front property line.

iii) No motor vehicle or its appurtenances shall be parked or stored on any sidewalk within any public right-of-way or protrude onto any public right-of-way.

iv) Recreational vehicles and motor vehicle appurtenances (e.g., RVs, camper shells, boats, trailers, boat on trailer, camper shell on truck) shall be limited to a maximum of one per main dwelling unit within any open area between the front and side of the main dwelling and the front and side property lines with no limit in the rear open areas.

v) The land area in front of or to the side of the main dwelling on which the recreational vehicle or motor vehicle appurtenance is parked or stored shall be graveled or paved. No parking or storage of recreational vehicles and motor vehicle appurtenances shall be permitted on graveled areas considered to be part of the property's landscaping.

vi) No parking or storage of recreational vehicles and motor vehicle appurtenances shall be located within the clear sight triangle (**H. Clear Sight Triangle**) on corner lots.

h) Wheelstop Provisions

i) Wheelstops are required for all parking spaces except those serving residential developments of four or fewer units.

ii) Size Requirements: Six feet in length, six inches in height.

iii) Horizontal in Placement: Two feet from the base of the parking space, securely anchored to the parking surface.

iv) Materials: Wheel stop material shall be compatible and appropriate to the site. Materials such as concrete, railroad ties, landscape timbers, or molded steel may be used.

v) Alternative Wheelstop Methods:

a. Adjacent to sidewalk: When the parking space base is adjacent to a six-foot required sidewalk, the sidewalk may be widened to eight feet, essentially making two feet of the sidewalk the wheelstop.

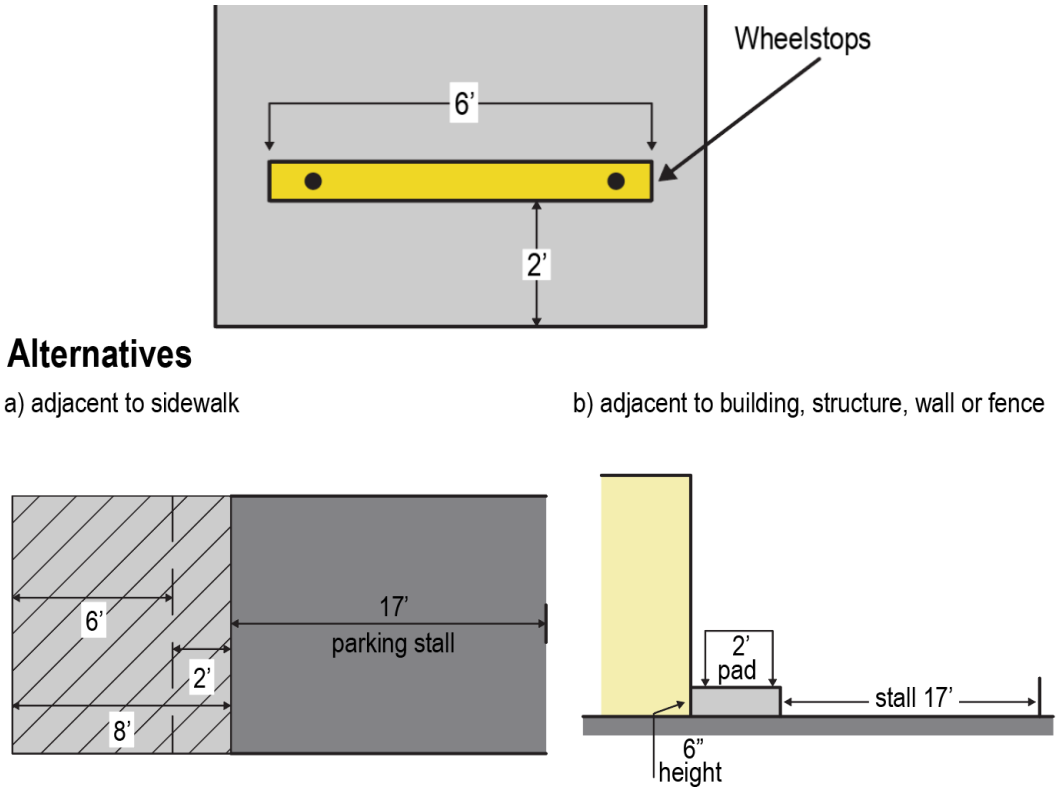
b. Adjacent to building, structure, wall or fence: When a parking space base is adjacent to a building structure or wall, a two-foot pad or landing may be constructed adjacent to the structure or wall. The pad or landing's construction must be of a minimum asphalt standard. The pad or landing cannot take the place of a required sidewalk.

c. Adjacent to landscaping/aggregate: Low lying (no taller than three inches and below the top of the curbing) landscape may be placed within the two-foot area where the pad or landing would be present. The landscaping shall be enclosed by a six-inch curb and be properly irrigated.

vi) Parking Space Measurement: When utilizing one of the alternative wheelstop methods, the parking space length will be measured two feet less or 17 feet.

vii) Exceptions: One and two-family dwellings are not required to provide wheel stops.

**Figure 38-2-15. Wheelstop Placement and Design**




7. Loading and Stacking

   a) New development involving routine vehicular delivery or shipping of goods, supplies, or equipment to or from the development shall provide a sufficient number of off-street loading berths to accommodate the delivery and shipping operations of the development’s uses in a safe and convenient manner.

   b) Loading and stacking areas must not conflict with emergency, vehicular, bicycle, or pedestrian access. All loading and stacking areas shall be shown on a site plan.

   c) Number and Size of Loading Berths Required

      i) Each loading berth shall be of sufficient size to accommodate the types of vehicles likely to use the loading area, at the discretion of the Community Development Director.

ii) A minimum stacking distance of 40 feet shall be provided at all ingress/egress access drives intersecting with a street. Other distances may be approved by the Director if warranted by lot size and configuration.

iii) **Figure 38-2-16** sets forth the minimum number of loading berths.

a. The Public Works Director may reduce the required loading space by up to 100 percent if warranted by the building's use.

**Figure 38-2-16. Required Off-Street Loading Berths**

| Gross Floor Area (sqft) | Number of Loading Berths | Size of Each Loading Berth |
|---|---|---|
| Less than 10,000 | None | N/A |
| 10,000 to 29,999 | 1 | 10 feet x 25 feet |
| 30,000 to 100,000 | 2 | 12 feet x 50 feet |
| More than 100,000 | 2, plus 1 additional loading berth for every 100,000 square feet beyond the first 100,000 square feet | 14 feet wide x 50 feet long x 14 feet high |

d) Location, Screening, and Arrangement of Loading Areas

i) Off-street loading berths shall be located and arranged so that vehicles can maneuver for loading and unloading entirely within the property lines of the site and are not required to back onto or from a public street.

ii) Required off-street loading spaces shall not be permitted in any front setback area or in any required street side setback area.

iii) Off-street loading spaces may occupy all or any part of a required rear setback area where visibility from public streets and windows of neighboring buildings will be minimized.

iv) Loading areas shall not interfere with parking lot maneuvering areas.

v) State and City streets or rights-of-way shall not be used for loading and unloading purposes.

vi) Off-street loading berths shall be located and/or screened so they are not visible from any thoroughfare or collector street right-of-way or from adjacent lands that are classified in a residential zoning district or developed with a residential use.

e) Vehicle Stacking Areas

The minimum stacking lane requirements are as follows:

i) Length required: The minimum length for a drive-thru is 85-100 feet

ii) Width required: Ten feet, except nine feet of drivable area at the point of service.

iii) The measurement of the length of the stacking lane begins at the middle of the last point of service and ends at the point of entry of the lane.

iv) A stacking lane shall be designed in a manner that permits appropriate traffic circulation and avoids congestion in the parking area.

v) The minimum radius of a stacking lane shall be 25 feet.

vi) Vehicles shall not overflow into the access easements or driving aisles.

f) Where traffic flow is controlled by an entry gate, guard house, or drive-through service facility, an adequate stacking lane, approved by the Public Works Director, shall be provided in a manner that does not interfere with maneuvering into parking spaces or traffic flow of aisles, streets, bike paths, or sidewalks.

## Sec. 38-3. Drainage and Flood Control

### A. Purpose

1. This section contains guidelines for drainage system design and establishes a standard practice for recognized and established engineering design of storm drain facilities to protect the health, safety, welfare, and property of the general public. This section also includes requirements for the submittal of drainage plans and associated documents related to development. Specific design criteria for drainage systems are included in the City of Las Cruces Drainage Technical Manual.
2. Methods and processes included in this section are the minimum standards. Recognized and established engineering practices and principles shall be followed in all engineering projects within the City limits. The Public Works Director shall determine the required parameters of any particular project or technical analysis and may require additional criteria should such be deemed to be in the best interest of the general public. If any of these requirements conflict with existing standards or guidelines, the more stringent shall apply.
3. Authority to Issue Administrative Warnings

   The Public Works Director, Community Development Director, and personnel under their supervision, as well as the City building and project inspectors shall be authorized to issue verbal or written administrative warnings to any person, operator or owner who allegedly violates any provision of this Section.

### B. Applicability

This Section applies to all new development, expansions that increase impervious surface, and or development that otherwise changes pervious surfaces (e.g., adds vegetation, changes slopes, etc.) as determined by the Public Works Director.

### C. Drainage Reports and Construction Plans for Drainage Facilities

1. Requirements for Drainage Reports and Construction Plans

   All drainage reports and construction plans shall be prepared by a professional engineer registered in the State of New Mexico and shall comply with the minimum requirements and specifications set forth in this section.

   Review schedules will be as outlined in the subdivision and building codes. However, reports involving large developments and complex structures will require more review time. If the development is phased, the final drainage report must also address how the intermediate runoff of each phase will be mitigated.

   The engineer should be aware that whenever unusual or serious drainage problems are anticipated in conjunction with a proposed development, additional analysis and information beyond the minimum requirements outlined in this section may be required by the Public Works Director.

   The following specifications and criteria shall be used for Drainage Reports:

   a) Master Drainage Study

      i) A master drainage study shall be required prior to approval for any annexation, Planned Unit Development, or Preliminary Plat. The purpose of the master drainage study is to identify major drainage facilities, ponding areas, locations of culverts, bridges, open channels, and drainage basins that are contributory to the proposed study area. In addition, the ability of downstream drainage facilities to pass the developed runoff from the proposed development must be analyzed in the master drainage study. The master drainage study shall contain a general outline of the proposed drainage routing plans for the development. The report shall include but not be limited to the following information and calculations:

         a. Calculations for peak flow for the 1-percent probability storm event from all upstream off-site tributary drainage areas.

b. Calculations for peak flow for the 1-percent probability storm event within the proposed development for all drainage basins larger than 20 acres.

c. Preliminary analysis of the floodplain and major drainage ways for the 1-percent and 10-percent probability storm event.

d. Closed subbasin analysis including identification of water into or out of subbasin.

e. Discussion and analysis of adverse impact anticipated to downstream drainage facilities.

f. Discussion of drainage problems and solutions that are anticipated within the proposed development.

g. The report shall be submitted electronically and formatted to an 8½-inch by 11-inch paper.

h. All drainage studies/reports must include a table of pertinent values in the body of the report. The values shall include, at a minimum, flow depth for all flow paths, peak velocity, Tc, freeboard for channels (not including streets), flow (Q), CN numbers, and volumes of runoff for basins. Drainage studies shall include maps showing both flow and volume into and out of basin(s) and proposed development.

i. Flows may need to be routed to a historic point of convergence for both the pre- and post-development/construction condition.

j. If a hydrologic model is required, the model should be included as an Appendix or Exhibit to the Drainage Report.

ii) Drawings for the master drainage study shall include but not be limited to the following:

a. Any and all floodplains and floodways must be identified. A copy of the applicable FEMA floodplain map is required indicating limits of current study.

b. Existing topography, one- or two-foot contour intervals.

c. Location and size of existing and proposed open channels, storm drains, and all other drainage structures.

d. NRCS soils map with area of interest indicated.

e. Identification of all contributing existing and affected drainage basins upstream and within the development.

f. Location of all streets larger than local classification.

g. Basin maps may be scaled as small as 1" = 600' (1:7200). Orthophoto maps at a scale of 1" = 200' are preferred. Basin maps shall have each basin name, area (acres), 10-percent and 1-percent peak flows (CFS) into and out of the basin (shown at the location of concentration) and, clearly indicated flow paths. Maps of a scale 1" = 2,000' may be used for undeveloped, offsite basins greater than one square mile.

h. All drainage maps shall be formatted to a minimum of 24" × 36" and shall be included in the electronic submittal. Pre-printed maps, such as USGS maps, are acceptable. Maps of a smaller size may be accepted at the reviewer's discretion.

iii) Inlet and storm drain size calculations are not required with the master drainage study; therefore, the number of subbasins analyzed in the report shall be held to the smallest practical number.

iv) Required Outline

The following is a sample outline for a typical master drainage report. Each of these headings should be addressed in the report body with supporting information and calculations in the appendices. Information provided at this stage of the review process is reviewed for only the phase submitted for and only for the requirements above. Post-development items are considered conceptual during this review phase.

a. Introduction and purpose
b. Methodology
c. Scope of investigation
d. Meteorological and geological
    i. Climate
    ii. Rainfall
    iii. Soil investigation
        (a) Hydrologic soil classification
        (b) Runoff curve number
        (c) Soil description
e. Basins
    i. Basin parameters – Existing and Proposed
        (a) Offsite
        (b) Onsite
f. Hydrology
    i. Pre-development
        (a) Direct runoff
        (b) Runoff volume computation
        (c) Peak flow computations
    ii. Post-development
        (a) Direct runoff
        (b) Runoff volume computation
        (c) Peak flow computations
    iii. Comparison of ponding volumes pre- and post-development
g. Hydraulics
    i. Natural and constructed channels
    ii. Streets
h. Conclusion section
    i. Discussion of final drainage management strategy, including upstream and downstream impact
    ii. Detailed description of hydraulic and hydrologic interaction
    iii. Formal statement by the developer certifying that the development will not have an adverse impact on properties and structures adjacent to or downstream of the new development. The statement must identify how standards are satisfied.
i. Appendices
    i. All required maps and drawings in electronic format
    ii. All calculations in electronic format

iii. Input and output from any modeling and routing software in electronic format

b) Final Drainage Study and Construction Plans for Drainage Facilities and Structures:

The final drainage study shall be a detailed study and analysis of the drainage in the proposed development for both predevelopment and post-development conditions. Developments include but are not limited to subdivisions, commercial developments, or planned unit developments. It shall include detailed calculations for all runoff within the proposed development, and detailed calculations for all runoff exterior to the site, with detailed calculations supporting the design of all drainage structures within the development. Final drainage studies shall use the approved methods as outlined in the Runoff Analysis Methods and shall incorporate green infrastructure as per the City of Las Cruces Standards. Construction plans for all drainage structures, grading plans, and street grades, where applicable, shall also be considered part of the final drainage study. Drawings and calculations comprising the final drainage study shall include but not be limited to the following information:

i) Clearly labeled existing and proposed contours for proposed development. (Contour interval based on USGS datum, one-foot contour interval minimum.)

ii) Location and elevations of City or USGS benchmarks. All elevations shall be based on USGS datum.

iii) Property lines.

iv) Streets, right-of-way limits, names and grades.

v) Existing drainage facilities and structures, including existing irrigation ditches, roadside ditches, drainage ways, gutter flow directions, and culverts. All pertinent information such as size, slope, and location of existing drainage ways shall be included to facilitate review and approval of drainage plans.

vi) Overall drainage area boundaries and drainage sub area boundaries.

vii) Proposed type of curb and gutter (vertical, combination, rollover, or flat) and gutter flow directions including cross-spans (intersections).

viii) Proposed storm drains, open drainage ways, and right-of-way requirements, including proposed inlets, manholes, culverts, erosion control and energy dissipation devices, and any other required appurtenances necessary for drainage control.

ix) Proposed inflow and outfall points for runoff from the study area.

x) Routing and combining all flows at various critical points for the initial 10-percent probability (10-year) and major (1-percent probability, 100-year) storm runoff.

xi) Minimum finished floor elevation and ground site elevations at all critical building locations for protection from major storm runoff.

xii) Predevelopment and post-development basin maps, with a scale of 1” = 100’ (1:100) of the proposed development, which shall show the following information:

a. Location and size of all drainage structures.

b. General flow patterns and flow paths within the development also to include offsite basins affecting the development.

c. Finished floor and ground site elevations of all buildings and adjacent sites and structures.

d. The 1-percent probability storm event flood level in all streets in which the curb is overtopped.

e. All drainage basins within, and affecting, the development shown in a table listing basin names, basin area (acre), 10-percent and 1-percent flood event peak flows into and out of each basin shown at the flow path location. The number of basins should be limited to the smallest practical number.

xiii) All floodplains and floodways within the proposed development. A copy of the current FEMA floodplain map is required, showing project limits.

xiv) All electronic or printed drawings shall be on 24” by 36” sheets. Maps of a smaller size may be accepted at the reviewer’s discretion.

xv) NRCS soils map showing project location.

xvi) Final drainage study shall incorporate master drainage study.

xvii) Recommended outline. The following is a sample outline for a typical final drainage report. Each of these headings should be addressed in the report body with supporting information and calculations in the appendices. Information provided at this stage of the review process is reviewed for only the phase submitted for and only for the requirements above.

a. Introduction and purpose

b. Methodology

c. Scope of investigation

d. Meteorological and geological

i. Climate

ii. Rainfall

iii. Investigation

(a) Hydrologic soil classification

(b) Runoff curve number

(c) Soil description

e. Basins

i. Basin parameters

f. Hydrology

i. Pre-development

(a) Direct runoff

(b) Runoff volume computation

(c) Peak flow computations

ii. Post-development

(a) Direct runoff

(b) Runoff volume computation

(c) Peak flow computations

iii. Comparison and ponding of pre- and post-development

g. Hydraulics

i. Natural and constructed channels

ii. Streets

iii. Culverts and storm drains

h. Conclusion section

i. Discussion of the final drainage approach

ii. Detailed description of hydraulic and hydrologic interaction.

i. Appendices

i. All required maps and drawings

ii. All calculations

iii. Input and output from any modeling and routing software

c) Plan Details

The following details shall be indicated on the drainage plans:

i) Title block (lower right-hand corner preferred)

ii) Scale

iii) Date and revisions

iv) Name of professional engineer and firm

v) Professional engineer's seal

vi) Drawing number (sheet n/n)

vii) Legend

viii) Approval blocks for various City departments

d) Construction Plans

Construction plans shall show the following information:

i) Plan

a. North arrow

b. Property lines, adjacent properties, ownership thereof, and subdivision information

c. Street names and easements with width dimensions and location

d. Existing utility lines, location and depth, or height, as follows:

i. Water

ii. Gas

iii. Telephone

iv. Storm drains

v. Irrigation canals

vi. Sanitary sewers

vii. Other utilities

ii) Profile

a. Vertical and horizontal grids with scales

b. Ground surface grade (dashed) and proposed grade (solid)

c. Existing utility lines where crossed

d. Benchmarks (USGS datum)

iii) Proposed construction

a. Pipes and culverts

i. Plan showing stationing

ii. Profile

iii. Size, length between manholes, and pipe composition

iv. Grades of pipe

v. Inlet and outlet details of all manholes and inlets and connections to existing drainage systems

vi. Manhole details, including station numbers and invert and top elevations

vii. Typical bedding details for pipe for all bedding situations encountered on the project

b. Open channels

i. Plan showing stationing

ii. Profile indicating the grade of invert of channel, top of lining if any, and adjacent ground grade

iii. Typical cross-sections

iv. Construction notes

v. Lining details

vi. Riprap and bedding details and gradation requirements for same

vii. Structure details of all inflow, outflow, and drop structures. Including sub grade and foundation design details

2. Construction Approval

Record drawings of improvements shall be provided for all subdivision or public right-of-way construction projects. The design engineer and the City must review and approve any changes to the original design of a project. Record drawings will be made by the design engineer from information provided by job-site contractors or field surveys. Upon obtaining the record drawings, final inspection, Letter of Map Revision (when applicable), and approval by the Public Works Director, the project can be issued a letter of acceptance, or the improvement can be accepted by the City in the case of a subdivision or planned development.

## D. Flood Hazard Prevention and Flood Control

1. In General

a) Statutory Authorization

The Legislature of the State of New Mexico has in New Mexico Statutes Annotated 1978, § 3-18-7 delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses, and it is determined to be in the public interest for the City to establish the flood control damage prevention regulations in this section.

b) Findings of Fact

i) The flood hazard areas of the City are subject to periodic inundation, which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety, and general welfare.

ii) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed, or otherwise protected from flood damage.

c) Statement of Purpose

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

i) Protect human life and health;

ii) Minimize expenditure of public money for costly flood control projects;

iii) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

iv) Minimize prolonged business interruptions associated with flooding;

v) Minimize damage to public facilities and utilities such as water, sewer, and gas mains; electric, telephone, and communication lines; and streets and bridges located in flood-prone areas;

vi) Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize future flood blight areas; and

vii) Ensure that potential buyers are notified that the property is in a flood zone or a flood-prone area.

d) Methods of Reducing Flood Losses

In order to accomplish its purposes, this section is intended to introduce methods designed to reduce flood losses, including the following:

i) Restrict or prohibit uses that are dangerous to health, safety, or property in times of flood, or that cause excessive increases in flood heights or velocities.

ii) Require that land and buildings vulnerable to floods, including facilities which serve such development, be protected against flood damage at the time of initial construction. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters.

iii) Control filling, grading, dredging and other development which may increase flood damage.

iv) Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters, or which may increase flood hazards to other lands.

e) Applicability of Section

This section shall apply to all areas of special flood hazard within the jurisdiction of the City.

f) Basis for Establishing the Areas of Special Flood Hazard

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, “The Flood Insurance Study (FIS) for the City of Las Cruces, Doña Ana County, NM, dated July 6, 2016, with accompanying Flood Insurance Rate Maps (FIRM) dated July 6, 2016, and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

g) Establishment of Development Permit

A development permit shall be required to ensure conformance with the provisions of this Code prior to the commencement of any development activities.

h) Compliance

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

i) Abrogation and Greater Restrictions

This section is not intended to repeal, abrogate, or impair any existing regulations, ordinances, easements, covenants, or deed restrictions. However, where this Code and the provisions of other regulations or ordinances conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

j) Interpretation

In the interpretation and application of this ordinance, all provisions shall be:

i) Considered as minimum requirements;

ii) Liberally construed in favor of the City of Las Cruces; and

iii) Deemed neither to limit nor repeal any other powers granted under State Statutes.

k) Warning and Disclaimer of Liability

The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations applicable at the time of authorship. On rare occasions, greater floods can and will occur, and flood levels may be increased by manmade or natural causes. This section does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This section shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this section, or any administrative decision lawfully made thereunder.

l) Lands to which this Section Applies

The section shall apply to all areas of special flood hazard within the jurisdiction of the City of Las Cruces, New Mexico.

m) Determination of Substantially Improved or Substantially Damaged Existing Buildings and Structures in Flood Hazard Areas

For applications for reconstruction, rehabilitation, repair, alteration, addition, or other improvement of existing buildings or structures located in flood hazard areas, the Floodplain Administrator shall determine if the proposed work constitutes substantial improvement or repair of substantial damage. Where the Floodplain Administrator determines that the proposed work constitutes substantial improvement or repair of substantial damage, and where required by this Code, the Building Official shall require the building to meet the requirements. The cost used in the substantial improvement determination shall be the cumulative costs of all previous improvements for a specific building or structure occurring during the immediate past five-year period.

2. Administration

a) Designation of the Floodplain Administrator

The Community Development Director hereby appoints a Floodplain Administrator who is certified to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Regulations) pertaining to floodplain management.

b) Duties and Responsibilities of the Certified Floodplain Administrator

Duties and responsibilities of the certified Floodplain Administrator under this section shall include but not be limited to:

i) Maintaining and holding open for public inspection all records pertaining to this section;

ii) Reviewing permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding;

iii) Reviewing and then approving or denying all applications for development permits required under the Code;

iv) Reviewing permits for proposed development to ensure that all necessary permits have been obtained from those Federal, State or Local governmental agencies, (including section 404 of the Federal Water Pollution Control Act Amendments of 1972 (33 USC 1334) from which prior approval is required);;

v) Making the necessary interpretation where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions);

vi) In riverine conditions, notifying adjacent communities and the New Mexico Department of Homeland Security and Emergency Management (NMDHSEM), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency;

vii) Assuring that the stormwater capacity within the altered or relocated portion of any watercourse is maintained;

viii) Obtaining, reviewing, and reasonably utilizing any base flood elevation data and floodways data available from a federal, state, local, or other source in order to administer the provisions of **Sec. 38-3.D.3.a)** through **Sec. 38-3.D.3.e)** below When base flood elevation data has not been provided, in accordance with **Sec. 38-3.D.1.f) Basis for Establishing the Areas of Special Flood Hazard**;

ix) Requiring that, when a regulatory floodway has not been designated, that no new construction, substantial improvements or other development, including fill, shall be permitted within zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community;

x) When a hydraulic or hydrologic study terminates near or within a development area, the limits of study shall be extended as necessary by the community and/or Floodplain Administrator to ensure hydraulic continuity and stable boundary conditions. The study shall extend upstream and downstream until computed water-surface elevations and flow characteristics are fully representative of existing conditions and no longer influenced by project effects. Extensions shall conform to FEMA MT-2 technical guidance and 44 CFR § 65.6(a)(8) to maintain proper tie-ins to effective data; and

xi) Assuring that, under the provisions of 44 CFR Chapter 1, Section 65-12, of the National Flood Insurance Program regulations, the City of Las Cruces may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevations of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).

c) Permit Procedures

i) Application for a development permit required under this Code shall be presented to the floodplain administrator on forms furnished by the property owner or the property owner’s representative and may include, but is not limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the development in relation to areas of special flood hazard. Additionally, the following information is required:

a. Where base flood elevations have not been provided by the Federal Emergency Management Agency, a drainage study prepared and certified by a professional engineer registered in the state. The drainage study shall include:

i. An aerial photo of the area to be developed and contributing watershed;

ii. An up-to-date contour map of the site to be developed at a scale of 1” = 100’ and contour lines at intervals of no more than one foot and spot elevations at all breaks in grade along all drainage channels or swales and at selected points not more than 100 feet apart in all directions;

iii. A contour map identifying the site to be developed and the entire watershed that contributes storm runoff to the development site;

iv. Calculations showing the peak discharge and volume of runoff that will pond or pass through the development site from a 1-percent probability storm; and

v. Calculations showing the 1-percent probability storm base flood elevation in relation to mean sea level on the site to be developed.

b. Elevation in relation to mean sea level of the lowest floor, including any basement, of all new and substantially improved structures;

c. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;

d. A certificate from a professional engineer or architect registered in the state of New Mexico that the nonresidential floodproofed structure shall meet the floodproofing criteria of **Sec. 38-3.D.3.b)ii)** below;

e. A description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and

f. Maintenance of a record of all such information in accordance with **Sec. 38-3.D.2.b)i)** above.

ii) Approval or denial of a development permit by the Floodplain Administrator shall be based on all of the sections of this ordinance and the following relevant factors:

a. The danger to life and property due to flooding or erosion damage;

b. The susceptibility of the proposed structure and its contents to flood damage and the effect of such damage on the individual owner;

c. The danger that materials may be swept onto other lands to the injury of others;

d. The compatibility of the proposed use with existing and anticipated development;

e. The safety of access to the property in times of flood for ordinary and emergency vehicles;

f. The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical, and water systems;

g. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

h. The necessity to the facility of a waterfront location, where applicable; and

i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

d) Variance Procedures

i) The City Council shall hear and render judgment on request for variances from the requirements of this ordinance.

ii) The City Council shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this article.

iii) Any person aggrieved by the decision of the City Council may appeal such decision to the District Court within 30 days of the rendering of the decision.

iv) Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

v) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic places without regard to the procedures set forth in the remainder of this ordinance.

vi) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below, the base flood level, providing the relevant factors in **Sec. 38-3.D.2.c)ii)** have been fully considered.

As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

vii) Upon consideration of the factors noted in this ordinance and the intent of this ordinance, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article stated in **Sec. 38-3.D.1.c)** and **Sec. 38-3.D.1.d)**.

viii) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

ix) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the repair or rehabilitation will not preclude the structures continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

x) Prerequisites for granting variances shall be as follows:

a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

b. Variances shall only be issued upon:

i. Showing a good and sufficient cause;

ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, and extraordinary public expense, and create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

c. Any applicant, to whom a variance is granted, shall be given written notice of the permitted elevation of the lowest floor of the structure to be built, which shall not be more than two feet below the base flood elevation. The cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

xi) Variances may be issued by the City of Las Cruces for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:

a. The criteria outlined in i) through x) are met; and

b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

e) Substantial Improvement and Substantial Damage Determinations

For applications for building permits to improve buildings and structures, including alterations, movement, repair, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

i) Estimate the market value, or require the applicant to obtain a professional appraisal prepared by a qualified independent appraiser, of the market value of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made.

ii) Compare the cost to perform the improvement, the cost to repair the damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, where applicable, to the market value of the building or structure.

iii) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage.

iv) Notify the applicant when it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood-resistant construction requirements of the building code is required and notify the applicant when it is determined that work does not constitute substantial improvement or repair of substantial damage.

3. Flood Hazard Reduction

a) General Standards

In all areas of special flood hazards, the following are required for all new construction and substantial improvements:

i) All new construction or substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

ii) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

iii) All new construction or substantial improvements shall be constructed with materials resistant to flood damage.

iv) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

v) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

vi) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters.

vii) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

viii) Floodplain development shall follow the Federal Emergency Management Agency's Letter of Map Change (LOMC) process (e.g., LOMA, LOMR, LOMR-F, CLOMR, CLOMR-F) as specified in 44 CFR. Upon the submittal of any preliminary and final drainage drawings for review, floodplain information shall be required along with a Conditional Letter of Map Revision (CLOMR and CLOMR-F) and a Letter of Map Revision (LOMR and LOMR-F) for 1-percent probability storm event for storm flows of greater than 250 cubic feet per second, developments of five acres and larger, developments with 50 or more lots, and/or developments with any changes to the existing flow path in flood hazard zones AE, A, AH, AO, and D. Information shall include peak discharges for the 10-percent, 2-percent, 1-percent, and 0.2-percent probability storms for the floodplain inundation area and anticipated depth of floodwaters one foot and deeper. Standard step backwater models shall be used for flood depth determination. The Hydrologic Engineering Centers HEC-2 analysis method may be required. Improvements and subdivisions will not be accepted by the City until the flood study has been approved by the Federal Emergency Management Agency.

a. A CLOMR will be submitted for review by the City and submitted to the Federal Emergency Management Agency prior to plan and/or Final Plat approval.

b. A LOMR will be submitted for review by the City and submitted to the Federal Emergency Management Agency before acceptance by the City and before the issuance of any Certificate of Occupancy. Costs incurred for the preparation of materials and fees paid to the Federal Emergency Management Agency will be borne by the developer.

b) Specific Standards

In all areas of special flood hazards where base flood elevation data has been provided as set forth in **Sec. 38-3.D.1.f) Basis for Establishing the Areas of Special Flood Hazard**, **Sec. 38-3.D.2.b)viii)**, or **Sec. 38-3.D.3.c)iii)** below), the following are required:

i) Residential Construction

New construction and substantial improvement of any residential structure shall have the lowest floor, including any basement, elevated to at least one foot above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in **Sec. 38-3.D.2.c)i)a** above is satisfied. When Base Flood elevation data has not been established, the City shall obtain, review, and reasonably utilize any Base Flood elevation data and regulatory data available from federal, state, or other source, in order to administer the provisions of this Section.

ii) Nonresidential Construction

New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to at least one foot above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level plus one foot of freeboard, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification, which includes the specific elevation in relation to mean sea level to which such structures are floodproofed, shall be issued by the certifying professional to the Floodplain Administrator and be maintained by the Floodplain Administrator.

iii) Enclosures

New construction and substantial improvements, with fully enclosed areas below the lowest floor that are useable solely for the parking of vehicles, building access, or storage in an area other than a basement and that are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:

a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

b. The bottom of all openings shall be no higher than one foot above grade; and

c. Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

iv) Manufactured Homes

Manufactured homes are subject to the following regulations.

a. All manufactured homes to be placed within Zone A on a community's FIRM shall be installed using methods and practices that minimize flood damage. For the purpose of this subsection, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

b. Manufactured homes in the following categories that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM must be elevated on a permanent foundation such that the lowest floor of the manufactured home is at least one foot above the base flood elevation and shall be

securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movements in accordance with paragraph **d** below:

i. Outside of a manufactured home park or subdivision,

ii. In a new manufactured home park or subdivision,

iii. In an expansion to an existing manufactured home park or subdivision, or

iv. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood.

c. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zone A1-30, AH, and AE on the community's FIRM that are not subject to the provision of paragraph **b** above must be elevated so that it meets the greater of either:

i. The lowest floor of the manufactured home is elevated at least one foot above the base flood elevation, or

ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, whichever is higher.

d. Ground anchoring systems shall meet the requirements outlined in the City manufactured housing installation code. Anchors and anchoring systems that do not meet these requirements shall be designed by a professional engineer registered in the state of New Mexico and approved by the Floodplain Administrator.

v) Recreational Vehicles

Recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

a. Be on the site for fewer than 180 consecutive days,

b. Be fully licensed and ready for highway use, or

c. Meet the permit requirements of **Sec. 38-3.D.2.c)i)b** above, and the elevation and anchoring requirements for "manufactured homes" in **Sec. 38-3.D.3.b)iv)** above. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

c) Standards for Subdivision Proposals

i) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall be consistent with **Sec. 38-3.D.1.b). Findings of Fact** through **Sec. 38-3.D.1.d). Methods of Reducing Flood Losses**.

ii) All proposals for the development of subdivisions, including the placement of manufactured home parks and subdivisions, shall meet the development permit requirements of **Sec. 38-3.D.1.g). Establishment of Development Permit** and **Sec. 38-3.D.2.b)ix)**.

iii) Base flood elevation data shall be generated for subdivision proposals and other proposed development, including the placement of manufactured home parks and subdivisions, which is greater than 50 lots or five acres, whichever is less, if not otherwise provided pursuant to **Sec. 38-3.D.1.f). Basis for Establishing the Areas of Special Flood Hazard** or **Sec. 38-3.D.2.b)viii)** above.

iv) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.

v) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to

minimize or eliminate flood damage. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. New and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during a flood event.

vi) All proposals for the development of subdivisions shall meet development permit requirements of **Sec. 38-3.D.1.g) Establishment of Development Permit** and **Sec. 38-3.D.2.b)ix)**, this section, as well as the requirements of **Chapter 37. Subdivision Regulations**.

vii) All preliminary and final plats submitted for approval must have any floodplain clearly graphically delineated and noted.

d) \Standards for Areas of Shallow Flooding (AO/AH Zones)

Areas designated as shallow flooding are located within the area of special flood hazard as established in **Sec. 38-3.D.1.f) Basis for Establishing the Areas of Special Flood Hazard**. These areas have flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where higher velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following apply to AO and AH zones:

i) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM plus one foot of freeboard (at least three feet if no depth number is specified).

ii) All new construction and substantial improvements of nonresidential structures shall:

a. Have the lowest floor, including any basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM plus one foot of freeboard (at least three feet if no depth number is specified); or

b. Together with attendant utility and sanitary facilities, be designed so that below the base flood level plus one foot of freeboard, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

iii) A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this section, as proposed in **Sec. 38-3.D.2.c)i)a** above, are satisfied.

iv) Adequate drainage paths around structures on slopes shall be required to guide floodwaters around and away from proposed structures.

e) Floodways

Floodways located within areas of special flood hazard established in **Sec. 38-3.D.1.f) Basis for Establishing the Areas of Special Flood Hazard** are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply to the floodway:

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

ii) If subsection **i)** above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of **Sec. 38-3.D.3.a) General Standards** through **Sec. 38-3.D.3.d) Standards for Areas of Shallow Flooding (AO/AH Zones)**.

iii) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, the City of Las Cruces may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision through the Federal Emergency Management Agency.

f) Severability

If any section, clause, sentence, or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

g) Penalties for Non-Compliance

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $10,000.00 for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Las Cruces City Council from taking such other lawful action as is necessary to prevent or remedy any violation.

## E. Development In or Adjacent to Areas Prone to Erosion

1. Scope of Division

Construction of slope protection within the City shall require an approved building permit and shall conform to the minimum design standards as specified within this Code and in accordance with the latest City-adopted edition of the International Building Code (IBC), City construction specifications, and design standards for all drainage facilities that will be dedicated to the City. All development in the special flood hazard area (SFHA) – also known as the flood zone – must comply with the Code of Federal Regulations (44 CFR 60.3).

2. Slope Protection for Drainage Ponds and Embankments

The following shall be applied to slope protection design and construction of slopes greater than 3:1:

a) Construction permit applications, if applicable, shall include all structural calculations, investigative reports, and design documentation.

b) All slope protection within the City shall be designed and constructed per City Design Standards and in accordance with the latest City-adopted edition of the International Building Code for both private and public construction, as applicable.

c) For any facilities dedicated to the City, a site-specific geotechnical investigation will be required.

d) City of Las Cruces Pond requirements, revised June 20, 2023, or latest version are included in the Drainage Technical Manual.

3. Erosion Control and Mitigation

The following shall apply to development:

a) A draft Stormwater Pollution Prevention Plan (SWPPP) and a Notice of Intent (NOI) must be included as part of the initial project design plan submissions for a construction permit.

b) All Best Management Practices (BMPs) shall be listed in the SWPPP.

c) All grading shall limit and control surface soil disturbance and removal of vegetation. All grading shall have controls in place to prevent surface runoff and sediment transport off-site.

d) A draft wind erosion plan (WECP) shall also be submitted, per WECP standards and requirements.

e) Storm runoff discharging to floodways adjacent to residential properties must be designed to prevent erosion of adjacent private property.

f) Requirements for erosion and wind control are located within the Technical Manual.

4. Geotechnical Soils Investigation

a) A geotechnical soils report is required for any facilities that will be dedicated to the City. A geotechnical soils investigation may be required if the soil conditions are unknown or otherwise unusual as determined by the Public Works Department. This requirement must also be met for soils that are classified as expansive, very fine, loose structure, have a history of instability, have a potential for future instability, or will have a designed or natural slope steeper than 3:1. Any soils report, or addendum, for a project/development shall be part of the building permit application and shall be presented as part of the construction permit drawing submittal.

b) Geotechnical investigations shall meet the requirements of ASTM D-420 “Investigation and Sampling Soils and Rocks for Engineering Purposes”.

c) Each boring log shall note the ground surface elevation at the location of each boring.

d) Ponds: Subsurface exploration depth below the designed bottom-of-pond (BOP) elevation to define the infiltration zone shall be:

i) Private ponds. Exploration of ten feet (minimum) below the designed bottom-of-pond (BOP) elevation for at least 20 percent of ponds in a development. Exploration points shall be equally spaced across proposed pond locations.

ii) City drainage ponds, ponds dedicated to the City, and dual-use facilities. One exploratory hole of 20 feet below BOP (minimum) for each pond.

5. General Slope Protection

The following applies to all slope protection related to drainage structures, including pond embankments and slope stabilization to prevent erosion and sediment transport due to storm events:

a) All slope protection designs 3:1 or steeper shall be designed by a Professional Engineer licensed in the State of New Mexico and reviewed by the City prior to issuance of a construction permit.

b) All slopes that do not have natural vegetation or ground cover shall be stabilized.

c) Slope stabilization methods shall follow guidelines and standards included in the Technical Design Manual and the latest edition of the New Mexico Department of Transportation (NMDOT) Standard Specifications for Highway and Bridge Construction.

d) Slope protection using planted vegetation is required for slopes 4:1 or less. Design shall be in accordance with **Sec. 38-7. Landscaping** and the following specifications:

i) Planted slope protection shall not be used for slopes steeper than 4:1.

ii) United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) practice standards shall be met for slope protection planting.

## F. Stormwater Quality/Pollution Reduction Development

1. Purpose

In order to meet the requirements included in federal and state regulations, including the Municipal Separate Storm System (MS4) permit and National Pollution Discharge System (NPDES), this section outlines the City guidelines for improving the quality of stormwater runoff by controlling pollutants and sediment, and improving the air quality by controlling dust from unstable soil.

Industrial, commercial, and residential construction shall conform to the latest applicable permit requirements and will submit a Stormwater Pollution Prevention Plan (SWPPP) and Wind Erosion Control Plan (WECP) for any

site that may release dust, sediment, or contaminated runoff to natural waters, including floodways and the Rio Grande.

National Pollutant Discharge Elimination System (NPDES) applies to persons obtaining construction permits clearing one (1) acre or more under the federal Environmental Protection Agency (EPA) Construction General Permit. This section shall apply to any stormwater discharge associated with commercial, industrial, residential, roadway, and other activities, including construction, in strict accordance with the current MS4 permit for the City of Las Cruces.

It shall also be the purpose of this section to:

a) Maintain and improve the quality of surface water and groundwater within the City limits;

b) Promote public awareness of the hazards involved in the improper discharge of hazardous substances, petroleum products, household hazardous waste, industrial waste, sediment from construction sites, pesticides, herbicides, fertilizers, pet waste, and other contaminants into the City's storm drains, natural waters, and water courses;

c) Encourage recycling of used motor oil and safe disposal of other hazardous consumer products;

d) Respect, protect, maintain, and restore arroyos, wetlands, bosques, floodplains, steep slopes, riparian vegetation, and wildlife habitat areas that are within the City's jurisdiction;

e) Treat stormwater runoff as a valuable natural resource of the City of Las Cruces, which is prone to drought, by encouraging water collection and infiltration on site;

f) Control the adverse impacts associated with increased and high-velocity stormwater runoff on natural drainage ways and stormwater structures due to increased development and its creation of new impervious surfaces;

g) Integrate stormwater management measures into the landscape and site planning process;

h) Provide aesthetically pleasing solutions to stormwater management and erosion control measures by integrating permanent measures into the overall landscape and site design;

i) Facilitate compliance with state and federal standards and permits by owners and operators of construction sites within the City; and

j) Assist the City in compliance with all federal and state laws, regulations, and permits applicable to stormwater discharge.

2. Administration

The Public Works Director shall administer and coordinate the implementation and enforcement of the provisions of this section.

3. Duties and Responsibilities of Public Works Director

Duties and responsibilities of the Public Works Director shall include, but are not limited to, the following:

a) Be the guardian of the MS4, including all dams, detention and retention basins, storm drains, outlet working channels, and pumping stations;

b) Maintain and hold open for public inspection all records pertaining to the provisions of this section;

c) Review permit applications to determine whether proposed developments will eliminate or reduce the pollutants entering the MS4;

d) Review, approve, or deny all applications for development permits required by the adoption of this section;

e) Maintain supervision over the operation and maintenance condition of the MS4 to ensure its safe and effective functioning and notify the streets systems administrator of any required maintenance and/or repair work;

f) Conduct an annual inspection of the MS4 and provide a written inspection report, including an assessment of the operational condition, safety, effectiveness, and maintenance condition of the system, and a line item list of required special maintenance or repairs to the streets systems administrator;

g) Establish and implement a program to locate and eliminate illicit discharges and improper disposals to the MS4;

h) Establish and implement a program to prevent, contain, and respond to spills that may discharge into MS4. This program shall be in conjunction with the fire department's hazardous materials division;

i) Establish and implement a program to identify and control pollutants in stormwater discharges from any construction or commercial facility that the Public Works Director determines is contributing a substantial pollutant loading to the MS4.

4. General Prohibitions

a) No person shall introduce or cause to be introduced into the MS4 or waters within the jurisdiction of the City any discharge that is not composed entirely of stormwater other than those that are identified in the following section.

b) It is an affirmative defense to any enforcement action for violation of subsection **a)** above that the discharge was composed entirely of one or more of the following categories of discharges:

i) A discharge authorized by and in full compliance with an NPDES permit (other than the NPDES permit for discharges from the MS4);

ii) A discharge resulting from firefighting;

iii) Agricultural stormwater runoff;

iv) A discharge from water line flushing, but not including discharge from water line disinfected by super chlorination or other means unless it contains no harmful quantity of chlorine or any other chemical used in line disinfection;

v) A discharge from residential lawn watering, residential landscape irrigation, or crop irrigation, water;

vi) A discharge from a diverted stream flow or natural spring;

vii) A discharge from uncontaminated pumped groundwater or rising groundwater;

viii) Uncontaminated groundwater infiltration to the MS4;

ix) Uncontaminated discharge from a foundation drain, crawl space pump, footing drain, or sump pump;

x) A discharge from a potable water source not containing any harmful substance or material from the cleaning or draining of a storage tank or other container;

xi) A discharge from air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant;

xii) A discharge from individual residential vehicle washing;

xiii) Uncontaminated discharge from riparian habitat or wetland; and/or

xiv) Discharge from water used in street washing provided that the water is not contaminated with any harmful cleaning substance.

c) No affirmative defense shall be available under subsection **b)** above if the discharge or flow in question has been determined by the City to be a source of a pollutant or pollutants to the waters of the United States or to the MS4, and written notice of such determination has been provided to the discharger.

5. Specific Prohibitions and Requirements

a) The specific prohibitions and requirements in this section are within but do not limit the general prohibition of all the discharges prohibited by **Sec. 38-3.F.4. General Prohibitions**.

b) No person shall introduce or cause to be introduced into the MS4 any discharge that causes or contributes to causing the City to violate a water quality standard, the City's NPDES permit, or any state- or federal-issued discharge permit for discharges from its MS4.

c) Additional Requirements

Additional requirements which may be requested from operator could include:

i) Location of all easements and rights-of-way;

ii) The delineation, if applicable, of the 100-year floodplain, floodway, if applicable, and any on-site or adjacent wetlands;

iii) Percolation test results for all areas with retention ponds or other facilities designed for infiltration and a description of techniques to be used to prevent the clogging of soil pores by fine sediment;

iv) A description of the approximate area of the watershed above the site, including the vegetative coverage and impervious surfaces;

v) SWPPP;

vi) The NOI.

d) Denial and Review

The Community Development Director may deny approval of any building permit, grading permit, subdivision plat, site development plan, or any other City approval necessary to commence or continue construction, or to assume occupancy, on the grounds that the management practices described in the plans, or observed upon a site inspection by City personnel, are determined not to control and reduce the discharge of sediment, silt, earth, soil, and other materials associated with clearing, grading, excavation, and other construction activities to the maximum extent practicable. Together with written notification to the applicant that the approval sought is denied, the Public Works Director shall provide the applicant a written explanation of the reasons for the denial. The applicant may request review of the decision made by the Community Development Director or by the Development Review Committee. Any such request for review shall be made within ten days of the date the applicant receives notification of the decision by the Community Development Director. The decision whether or not to review the decision shall be within the sole discretion of the Committee and may be limited to written materials considered by the Committee to be relevant.

e) Inspections and Corrective Action by the City

The City of Las Cruces, through its designated agent(s), shall inspect sites throughout construction activities and either shall approve that portion of the work completed or shall notify the permittee that the work fails to comply with the provisions of this Code, State Administrative Code and/or federal NPDES regulations. Corrective action for non-compliance issues shall begin immediately. Completion of corrections shall not exceed seven days. Failure to comply will result in an immediate stop work order of construction on the site.

f) Increase in Minimum Standards

The Public Works Director and/or the Community Development Director may require implementation of more than the minimum stormwater standards if arroyos on site, or immediately downstream of a site, show evidence of increased flooding, accelerated erosion (erosion caused by development activities that exceeds the natural processes by which the surface of the land is worn away), channel erosion or sedimentation. Increased requirements shall be limited to the following on-site measures:

i) Erosion control measures extended to a broader area of the site than the development area;

ii) Revegetation of highly eroded areas;

iii) Arroyo restoration or other erosion control measures within highly eroded channels; or

iv) A combination of the above measures.

g) Variance from Stormwater Quality Management On Site

i) The Public Works Director may authorize alternative methods if the following conditions are met:

a. Stormwater quality can effectively be controlled through private off-site mitigation or through an arrangement to use an existing regional stormwater management facility.

b. Any of the following conditions apply:

i. The soil is not stable as demonstrated by a geotechnical report certified by a professional engineer licensed in the State of New Mexico.

ii. A licensed professional can clearly demonstrate and provide technical basis to support that the site use is not consistent with the capture and reuse of stormwater.

iii. Other physical conditions exist that do not leave sufficient area for on-site stormwater quality control.

iv. The developer constructs a project in accordance with drainage design standards to replenish regional groundwater supplies at an off-site location that is located in the same drainage basin within the boundaries of the development site.

v. Acquisition of surface water rights may be required in order to implement management off site.

ii) The basis for requesting private off-site mitigation or a variance request is clearly demonstrated in the Drainage Plan or negotiated during the PUD process (see **Sec. 36-5.D. Planned Unit Developments (Error! Reference source not found.**s)).

h) Notification or Permitting by Other Agencies

Activities permitted by this section may also require notification or permitting by other agencies, including but not limited to written approval from the Elephant Butte Irrigation District or other official watercourse related organization, the federal Environmental Protection Agency, the United States Army Corps of Engineers, the Federal Emergency Management Agency (FEMA) and the New Mexico Environment Department (NMED).

## G. Low-Impact Development and Green Infrastructure

1. LID strategies shall be considered and developed as part of the development drainage plan in order to minimize required stormwater detention or retention volumes. LID strategies shall be considered for both commercial and residential development and should demonstrate consideration of the local climate and soil types and availability of water for maintenance of trees and vegetation. The City's Landscape Architect shall maintain a list of approved plant materials.
2. The Technical Manual and **Sec. 38-4. Low-Impact Development and Green Infrastructure** include approved LID methods to improve stormwater quality. Such LID methods must be shown on the final Drainage Report.

## H. Drainage System Operation and Maintenance

1. The actual effectiveness of any storm drainage system compared to that determined through modeling and other engineering computation procedures may differ greatly. The intake capacity of a storm drain inlet can be reduced by more than 75 percent due to debris accumulation. Trash collecting on a pier of a bridge over a flood control channel may actually direct water out of the channel although the discharge is well below the channel design capacity. Sand and silt accumulations within a storm sewer may completely block the line. Pump stations that have not been regularly exercised may not operate when called upon.
2. In order to increase system efficiency and improve the City drainage systems, the following maintenance guidelines shall apply to operators of private drainage systems:

**Figure 38-3-1. Private Drainage System Maintenance Guidelines**

| Facility | Maintenance | Inspection |
|---|---|---|
| Channels | Monthly June-October | Semiannual |
| Pump stations | Monthly June-October | Semiannual |
| Detention/Retention facilities | As necessary, monthly June-October | After any major storm (one inch or greater) |
| Storm sewer systems | Annual | Biannual |
| Storm sewer inlets | After rainfall events or biweekly during rainy periods | Semiannual |

3. Proper operations and maintenance of storm drainage and flood control facilities includes both cleaning and minor repair to the facilities as well as completely rebuilding some facilities which have, through weathering or lack of maintenance, been rendered useless or present a threat to public safety. The purpose of the operation and maintenance is to maintain the design capacity and the use of the facility.
4. Community Ditches and Parkways

   The maintenance, cleaning, weed and grass removal, upkeep and repair of community ditches and parkways within the City shall be the responsibility of the owners of the abutting property, whether or not such persons are users of water in the community ditch.
5. Maintenance Responsibilities for Stormwater Systems
   a) Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately-owned structures within or adjacent to the watercourse, so that such structures will not become a hazard to the use, function or physical integrity of the watercourse.
   b) The stormwater management system shall be maintained in good condition and promptly repaired. Maintenance shall include the repair and restoration of all grade surfaces, walls, swales, drains, dams, ponds, basins, site restoration measures, associated vegetation, and any other stormwater measure constructed on site. Such maintenance shall be in accordance with the National Pollutant Discharge Elimination System Manual "Storm Water Management Guidelines for Construction and Industrial Activities", latest version.
   c) All stormwater management measures and facilities shall be maintained by the fee simple owner of the property, a homeowners association that can demonstrate that it not be disbanded during the life of the facility or a regional entity specifically dedicated to the maintenance of a regional pond, unless a dedication of the stormwater management system has been required or accepted by the City, in which case, the City shall be responsible for maintenance. Maintenance agreements shall be recorded at the County Clerk's Office and the rights and responsibilities for the maintenance of the drainage structures will be associated with the property in the event of a transfer of ownership, unless and until the drainage structures are modified or removed. Any and all changes to the maintenance agreement will be required to be recorded at the County.
   d) Owner(s) of drainage structures, including ponds, that discharge or connect to the City of Las Cruces stormwater utility (MS4) or discharge into the Waters of the United States within the City of Las Cruces city limits must conduct, at a minimum, an inspection of each drainage structure every three years following a passing inspection beginning when the property owner assumes ownership of the property and files the maintenance agreement.
      i) Privately maintained infrastructure shall be inspected by City personnel on a routine basis. Inspection shall include, but not be limited to:

a. Inspection and maintenance records; review of design and technical specifications of infrastructure; physical inspection of the facility; and review of the required maintenance agreement.

b. Erosion will be noted in physical inspection with corrective actions required.

c. Sediment accumulation will be noted by required engineered controls including sediment gauges, staffs, or designed elevation of pond depth, to determine if sediment removal is required.

ii) The City may choose to provide a pre-formatted inspection report to be used for each inspection. Any maintenance and repair deficiency identified in the inspection report must be adequately addressed to ensure compliance with the requirements of the City. Upon completion of all necessary maintenance, repair or deficiency identified in the inspection report, the drainage structure shall be re-inspected at the Owner's expense. The re-inspection report shall be filed and approved by the City confirming that all corrective measures have been completed.

iii) If the Owner(s) responsible for maintaining the drainage structure(s) fails to properly maintain the structures or submit certified inspection reports, the City will send a written notice to the owner(s) to correct the problem within 30 days from the Owner(s) receipt of the notice. If the owner(s) fail to comply with the notice, the City may initiate action as outlined in the subsequent section, Maintenance Agreement.

e) Prior to project construction plan approval by the City, applicants must ensure implementation and maintenance of the Best Management Practices (BMPs). Applicants shall be required to submit a maintenance agreement and operation and maintenance plan prior to issuance assuring that all permanent BMPs will be maintained throughout the use of the project site.

6. Maintenance Agreement

The maintenance agreement shall include the following:

a) Operation and Maintenance (O&M) Plan

The applicant shall include an operation and maintenance (O&M) plan, prepared satisfactory to the City, with the approved maintenance agreement, which describes the designated responsible party to manage the stormwater BMP(s), including maintenance frequency specific maintenance activities (including maintenance of storm drain inlet markers), copies of agency permits and any other necessary activities. At a minimum, maintenance agreements shall require the applicant to provide inspection and servicing of all permanent BMPs on an annual basis. The project proponent shall complete and maintain O&M forms to document all maintenance requirements. Parties responsible for the O&M plan shall retain records for at least five years following the date that the maintenance occurred. These documents shall be made available to the City for inspection upon request at any time. O&M plan shall require engineered controls, including staffs or gauges, to facilitate inspection of sediment accumulation in retention and detention facilities.

b) Access Easement/Agreement

Unless the applicant accepts permanent maintenance responsibilities, the applicant shall execute an access easement, if needed, to the official maintenance entity that shall be binding on the land throughout the life of the project.

c) Maintenance Violations

If, after notice by the City to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) or responsible party within 30 days, the City may perform or contract all necessary work to place the facility in proper working condition. The owner(s) or responsible party of the facility shall be assessed the associated costs of the work and shall reimburse the costs for said work. In the event of non-payment of work, a lien will be placed on the property associated with the repair, maintenance or corrections of deficiencies identified by the City.

7. Citizen Participation

a) All citizens are encouraged to report to the City any spills, releases, illicit connections, other instances of anyone discharging pollutants into the MS4 or waters of the United States, and any other violation of this section of which they become aware.

b) The Public Works Director or City Codes Enforcement Department shall receive all such citizen reports by email or web reporting (Ask 311), telephone, in writing, and in person. A written record of each citizen report will be prepared and kept on file for a period of three years, and a copy of the City's record of the report will be furnished to the reporting citizen upon request. Also upon request, the City will inform the reporting citizen of any action undertaken by the City in response to the citizen's report.

## Sec. 38-4. Low-Impact Development and Green Infrastructure

### A. Purpose

1. Beneficial alternative and innovative solutions to stormwater management should be included in projects during the design process, with the primary intent of reducing the volume of stormwater runoff from a site and increasing water quality. This is accomplished by using a combination of strategic site design, stormwater control measures, and landscape elements to capture and treat water closer to the source (the site upon which the water initially falls). This approach can help prevent localized flooding, provide an array of multi-benefits for the community, and reduce the need for or impact on traditional stormwater infrastructure and facilities.
2. Low Impact Development (LID) is an approach to site planning that seeks to protect natural water processes on a site by avoiding impacts of development to the extent possible via protecting undisturbed open space and existing vegetation, minimizing land disturbance, and minimizing impervious cover. LID may also include strategies that restore predevelopment hydrological conditions on a site.
3. Green Infrastructure (GI) includes techniques that utilize plants, soils and other natural elements and processes to store, slow, and/or filter water on-site through functional landscape elements. GI is appropriate for use in both greenfield and urban developments.

### B. Applicability

1. LID and GI techniques should be utilized on all new developments or redevelopments.
2. A menu of elements outlined in the Technical Manual allows for the application of LID and GI elements in a variety of contexts, from low-density single-family neighborhoods to urban mixed-use developments.
3. Projects that are not otherwise required to meet the GI/LID requirements may participate in an incentive program, as outlined in the Technical Manual.

### C. General Requirements

1. All LID and GI elements shall be regionally and contextually appropriate.
2. LID and GI elements shall seek to maximize the provision of multi-benefits as applicable and appropriate.
3. With approval of the Public Works Director, the City may accept maintenance duties of GI elements constructed in the right-of-way.
4. See the Technical Manual for a menu of approved LID and GI elements.

### D. LID and GI Incentive Program

In addition to achieving the minimum requirements, the Technical Manual outlines a series of credits that projects may achieve, with higher levels of credit given based on the quality or quantity of the LID/GI elements used and more credits offered to sites with higher allowable levels of impervious cover (IC) where installation of elements is more demanding (e.g., high-density urban projects get higher levels of credits than low-density suburban projects).

1. Other City Requirements

   Projects must comply with all City code requirements, including landscape provisions and maintenance requirements. Elements shall not be double counted with other City requirements (e.g., landscape elements) already required by code. LID/GI elements used towards this incentive program must be beyond minimum code requirements, except as outlined in the Technical Manual. Enhancement of landscape elements required by code may count for partial incentive credit, for example, using low-maintenance, drought-resistant native plant species in landscape areas otherwise required by code.

2. MS4 and Other Requirements

Projects must comply with the requirements of the latest active MS4 permit and any other applicable U.S. Environmental Protection Agency or state-level requirements regarding water quality and stormwater. GI and LID elements used to meet these requirements may count towards the LID/GI elements credits required per this Code.

3. Alternative Compliance

   Credit may be granted if the project obtains certification under a third-party sustainability certification, as noted in the Technical Manual. If credits are provided under the expectation of a third-party certification but the project ends up not achieving those credentials, the project must achieve equivalent credit via provision of LID/GI elements outlined in the Technical Manual or pay a fee-in-lieu.

4. Fee in Lieu

   Credit may be granted for the payment of a fee in lieu of providing on-site LID/GI elements, as approved by the Community Development Director and Public Works Director, and in consultation with the City's Landscape Architect and Forester/Arborist. Fees paid through this program shall go into the Green Infrastructure Fund which allows the City to install or maintain GI elements elsewhere in the City, at their discretion. Fee calculation amounts are provided in the Technical Manual.

5. The City reserves the right to inspect GI elements installed under the incentive program on private property for proper installation, maintenance, and ongoing performance. If the City deems the element to be not installed, maintained, or performing properly the owner must rectify the issue in a reasonable timeframe or be subject to penalty as applicable for not delivering on approved development agreements.

6. Credit may be granted to GI elements constructed within the right-of-way, per **C. General Requirements**.

7. Additional requirements can be found in the Technical Manual.

## Sec. 38-5. Parks, Trails, and Open Space

### A. Purpose

The purpose of this section is to ensure that new master plan or subdivision development allocates resources for accessible and useable parks and trails in accordance with the adopted Parks and Recreation Master Plan, the Comprehensive Plan, the Active Transportation Plan and any applicable adopted City plan.

### B. Applicability

1. Single-family Residential Development. The requirements of this section for park land and trail dedication shall apply to all developments resulting in the creation of new residential dwelling units.
   a) Exceptions:
      i) Replats of property if no increase in dwelling units will occur.
      ii) Property in the Rural Character Area or zoned OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban) or OS-2, Open Space-Drainage District (Rural, Suburban, Urban).
2. Multi-family Residential Development. The requirements of this section for park land and trail dedication shall apply to all developments resulting in the creation of new multi-family residential units.
3. Non-Residential Development. The requirements of this section for open space and trail dedications shall apply to non-residential developments.
   a) Mixed-use developments may propose park land, trails, or open space dedication or a combination to satisfy the requirements of this section.
   b) Exceptions:
      i) Single-lot commercial developments containing less than 5 acres; and
      ii) Property zoned Industrial is not required to dedicate open space, however shall provide connections and dedicate trail easements if adjacent to an existing or proposed trail corridor in accordance with **Sec. 38-5.D. Trails**.
      iii) Projects with approved applicable adopted plans.
      iv) Approved Planned Unit Developments (PUDs) that provide parks and trails in accordance with applicable adopted plans.
4. Park Impact Fees will be assessed at the time of building permit for other park facilities as outlined in Section 33-32 of the LCMC.

### C. Park Land

1. Park Land Dedication

   Dedication of park land and installation of park improvements within new developments and redevelopments is required to provide shared space and amenities for the health and enjoyment of neighborhood residents.

2. The amount of park land required to be dedicated (or fee in lieu of dedication) is as follows:

   (3 acres x number of dwellings *x* people per unit*) / 1,000 people = Acres to be dedicated

   *Multi-family and single-family persons per unit shall be based on adopted land use assumptions.

3. Density shall be determined by the units specified on a master development plan or site plan or, in cases where not specified the maximum density per applicable zoning district should be used.
4. Parkland Standards

   Land may be dedicated for neighborhood parks to serve new development. Dedicated acreage may also be combined with existing parkland to accommodate larger community park facilities. At a minimum, parkland shall comply with the following area and location standards:

   a) Land dedicated for a neighborhood park shall be a minimum of three contiguous acres in size. Land may be considered contiguous if it abuts both sides of a street with a Local classification and the separate areas are joined by a marked pedestrian crossing; and

   b) The land must provide a minimum of 200 feet of continuous street frontage; and

   c) Walkshed. Dedicated parkland shall accommodate neighborhood walksheds of ¼ mile by providing a safe, accessible sidewalk or trail connections from the outside edge of the park property to the adjacent neighborhoods; and

   d) The land must be situated to allow convenient pedestrian and bicycle access; and

   e) Park area must be visible from adjacent homes or buildings and public streets; and

   f) Drainage areas or areas with undulating topography or slopes exceeding five percent are acceptable if the areas are to remain in their natural state and will preserve one or more significant features such as creeks, watersheds, viewsheds, native clusters of trees, or habitat for native or migratory species; and

   g) At the discretion of Parks and Recreation and in cases of specialized facilities, no more than half the area of the park land dedication may be located as follows:

      i) On a slope of 20 percent or greater; or

      ii) Within an arroyo; or

      iii) Within the 100-year floodplain.

   h) The location of dedicated park land shall also address the following, with specific consideration where service gaps are identified within the Parks and Recreation Master Plan:

      i) Proximity to existing or planned transit routes; and

      ii) Concentrations of multi-family housing and affordable developments; and

      iii) Population density; and

      iv) Areas of low household income.

5. Parkland Improvements

   Improvement shall be designed and built in accordance with the Parks and Recreation Facility Standards Manual and shall be coordinated with and approved by the Parks Director or their designee.

6. Fee in Lieu of Required Parkland Dedication and Improvements

   When a fee is paid in lieu of parkland dedication and improvements in accordance with **Sec. 38-5.I**, the applicant shall provide an estimate of the cost of required park improvements. The applicant shall pay the amount of the approved estimate to the City in lieu of construction of required improvements to comply with this Section.

## D. Trails

1. Trail Dedication and Construction

When a trail or trail extension is proposed on the subject property, the decision-making body is authorized to require that a dedicated tract or easement be provided for the trail. Sufficient land shall be dedicated and improved to provide trails in conformance with applicable adopted City plans.

a) Extensions of the public trail network shall be included in the calculation of the amount of dedicated park land when the trail and amenities, including street trees and landscaping, street furnishings, or other improvements outlined by the Parks and Recreation Facility Standards Manual or applicable adopted plans are installed.

b) Connections to existing and proposed trail corridors shall be dedicated and built when the trail corridor is adjacent to or connects to a proposed development that meets **Sec. 38-5.B. Applicability**.

c) . Trails shall be located and constructed as illustrated in applicable adopted plans.

d. Minor alignment adjustments may be appropriate to accommodate site-specific characteristics to achieve the ideal trail alignment.

d) Trail Connections to adjacent land shall be provided when:

i) The adjacent land is publicly owned or otherwise open to the public, or

ii) The adjacent land is under common ownership with the parcel proposed for development.

2. Trail Standards

Unless otherwise specified, all trails shall be constructed to adopted City standards and criteria from the Parks and Recreation Master Plan or any other applicable adopted City plan, and the Parks and Recreation Facility Standards Manual and shall conform to the requirements of the Americans with Disabilities Act, where applicable and as may be amended. Universal design should be incorporated whenever practical.

Extensions of the public trail network or portions thereof may be included in the calculation of the amount of dedicated park land upon the approval of the Parks and Recreation Director or designee and when the trail and amenities are installed.

Connections to existing and proposed trail corridors are dedicated and built when the trail corridor is adjacent to or connects to a proposed development that meet **Sec. 38-5.B. Applicability**.

## E. Open Space

1. Open Space Dedication

Open space dedication may be considered to preserve natural or environmentally sensitive areas, protect historically or culturally significant sites, or provide public gathering places such as plazas within a development or when outlined in any applicable adopted City plan.

2. Public open space may be dedicated in lieu of or in combination with park land to meet the minimum requirements of this section with review and approval by the Parks and Recreation Director or designee.

a) Amenities and improvements for a dedicated public open space shall comply with the Parks and Recreation Facility Standards Manual. Open Space improvements shall be determined during the development review process and shown on the Preliminary Plat or Site Plan for the proposed development.

3. Private open space may be included to address part of the required dedication in accordance with **Sec. 38-5.I.3**.

## F. Dedication Procedures

1. Proposed Development

a) The developer shall provide an area or areas for public parks, trails, or open space, or a combination, in accordance with the Las Cruces Parks and Recreation Master Plan and any other applicable adopted City plan.

b) The developer shall dedicate easements or deed property for trails and trail connections in accordance with applicable adopted plans.

2. Planning & Zoning Commission. The developer and the DRC, in consultation with the Parks and Recreation Advisory Board, as appropriate, shall make a joint recommendation to the Planning & Zoning Commission as to the land dedication or fee in lieu of dedication. If they are unable to agree, the developer and the DRC shall make separate recommendations to the Planning & Zoning Commission who shall determine the issue.

### G. Criteria for Dedication

1. Land shown as dedicated on a Final Plat shall be free from any of the following:
   a) Human inhabitants;
   b) Hazards, including scrap material, junk, vehicles or equipment, above-ground or below-ground environmental contaminants or holding tanks;
   c) Encumbrances of any kind, including deed restrictions, liens, or easements, unless they confer to the benefit of the City or will not interfere with the use of the property as a park;
   d) Other undesirable objects or features that may accrue to the liability of the City based upon an inspection the City conducts at its discretion prior to accepting the land for dedication.
2. Land dedicated for open space or for unimproved parkland or trails must be preserved in its pre-developed state and may not be used for construction activities or storage of materials or equipment during construction of the subdivision or development, unless otherwise specified in a development agreement.

### H. Zoning Requirements

1. Lots created for the purpose of park land or trail dedication shall not be required to meet the standards for lot size or area within any zoning district.
2. Lots created for the purpose of park land dedication to serve the residents of the surrounding area shall not be subject to POA/HOA dues or other fees established for maintenance or other purposes within the neighborhood.

### I. Alternatives to Park Land Dedication and / or Improvements

If suitable land for park land dedication is not available, the subdivider or developer may propose one or more of the following in lieu of dedication and upon the approval of the Parks Director or designee:

1. Fee in Lieu

   A fee set by the City Council based on the market value of the required acreage and improvements.

   a) The City shall determine the amount of the fee at the time of Preliminary Plat or Site Plan approval and the developer or subdivider must pay all fees before recording a Final Plat or obtaining a Building Permit.
   b) The City will reserve the contributed fees for the purpose of purchasing and/or improving public park and recreational land in the City in a manner that is consistent with the service level and proximity criteria in the Las Cruces Parks and Recreation Master Plan.
   c) If the City fails to expend all the contributed funds on parks or improvements to parks in accordance with NMSA 5-8-11, the original property owner, subdivider, or developer or their successors and assigns in chain of title, may request in writing that the City refund any remaining funds in accordance with NMSA 5-8-17.
   d) Park Fund Established
      i) Establishment

      A separate fund to be deposited at the highest interest rate permitted by law to be entitled “Park Fund” shall be and is hereby created. The money paid into the fund shall be held in said fund in trust to be used solely and exclusively for the purpose of purchasing and/or improving public park and recreational land within the City.

ii) Purchases and Use of Funds

The principal and interest deposited and kept in the Park Fund shall be used solely for the purpose of purchasing and/or improving land for public park and recreation uses.

2. Improvements to Existing Parks

Improvements the developer or subdivider pledges to perform or provide in existing City parks in accordance with a recommendation from the City and consistent with adopted City standards.

3. Private Park or Open Space Development

Providing private parkland or open space shall account for up to 50 percent of the required public park land dedication, provided that the private park conforms to the following:

a) The property is deed-restricted for use as a park or reserved open space;

b) The property is shown on the Final Plat as park land or common area;

c) Parks are built to the standards of a public park and conform to the intent of the Parks and Recreation Master Plan and the Comprehensive Plan; and

d) The park or open space is owned and maintained by a homeowners' or property owner's association.

4. Other Substitutions

a) Specialty parks less than 3 contiguous acres;

b) Combination of improved parkland, trails, and open space that result in 3-acres;

c) Improved parkland located adjacent to developable vacant property that can be expanded with future development; and

d) Improved parkland installed by the developer whereby improved acreage in excess of the development's minimum requirement is reimbursed by the City as outlined in a reimbursement agreement approved by City Council.

## J. Dedication Prior to Development Application

1. If a developer wishes to dedicate land that exceeds the requirement of this section reimbursed by the City as outlined in a reimbursement agreement approved by City Council.The approved credit shall be applied toward the developer's obligation under this section for any subsequent development by the same developer/owner within a one-half (½) mile walkshed of the original development site or as recommended by the DRC and approved by the Planning & Zoning Commission.

## K. Timing of Dedication or Fee in Lieu

1. Timing of Land Dedications

a) Dedication of park land shall occur through the filing of a Final Plat that has been approved by the City. Completion of construction of park improvements to the satisfaction of the City shall be a precondition of the filing of a Final Plat unless either a Performance Security acceptable to the City has been submitted or the Director of the Parks & Recreation Department agrees to waive this precondition. When not dedicating with a Final Plat, a separate instrument addressing the items in **K.1.a)ii)** below is required.

i) The proposed dedication shall be shown on the Preliminary and Final Plat or Site Plan and shall be reviewed as an element for final approval of an application for development.

ii) Submission of dedication documents is required for final approval. Dedication documents include, but are not limited to:

a. A metes and bounds description of the land to be dedicated,

b. A survey of the property,

c. A copy of the fee simple deed and title policy for the property,

d. An environmental statement (ESA Phase 1) that indicates the site is free of environmental contamination or hazards, and identifies critical environmental features, and

e. Documents conveying ownership to the City by warranty deed, transferring the property in fee simple to the City, and ensuring that the property is free and clear of any mortgages or liens at the time of such conveyance.

iii) The park land shall be labeled on the Final Plat or Site Plan as "Public Park, Trail or Open Space (as applicable)land dedicated to the City of Las Cruces" with the acreage of land labeled on the Plat or Site Plan.

iv) Any disturbed land shall be restored, and the soil stabilized by vegetative cover by the developer.

b) Deeded land is dedicated public property and not subject to any right of reversion or refund.

2. Timing of Fees in Lieu

a) A cash contribution in lieu of required land development shall be payable before the City signing the Final Plat, or issuance of building permits for a Site Plan.

b) With the approval of the Planning & Zoning Commission, a developer may pay such contribution in three equal installments to be paid in full within one year of Final Plat approval.

3. Multi-phase developments shall dedicate sufficient park land and trail easements to meet or exceed the proportionate total requirement for the phase being recorded on the Final Plat.

4. Timing of Improvements

a) Subject to Adequate Facilities and Substantial Completion.

b) Improvements must be completed no later than 50% build-out or 2 years after the subdivision plat is recorded, whichever comes first.

c) If required park improvements are not installed at the time of subdivision construction a form of Performance Security and a bid from the contractor shall be filed with the City, along with a development agreement outlining the improvements to be completed, any cost sharing agreements (e.g., oversizing), and other terms as required by the Parks and Recreation Director.

i) The amount of such Performance Security must cover 125 percent of the projected cost of all required improvements agreed to by the Parks and Recreation Director. The amount shall be based on the projected costs that the City – not a private developer – would incur at the time improvements are scheduled for completion.

ii) Any of the following types of security shall be filed with the Community Development Director:

a. Performance bond. A surety bond acceptable to the City.

b. Escrow account. An account established with a financial institution.

c. Irrevocable stand-by letter of credit. The City shall have irrevocable authority to draw a draft for the projected cost of improvements.

d. Cashiers' check. An amount of security acceptable to the City.

e. Any other form of security approved by the Community Development Director, Finance Director, and legal staff.

d) The City shall not issue any building permits within the subdivision until all improvements have been installed and inspected, unless Performance Security is provided.

e) Any further extension of time for completion of required improvements shall require approval of the Planning & Zoning Commission.

f) Updated improvement cost estimates and additional performance security may be considered as a condition of any approved extension.

## Sec. 38-6. Tree Preservation

### A. Purpose

The purpose of this section is to support the following objectives from the Comprehensive Plan:

1. Maximize tree cover;
2. Improve air quality;
3. Manage stormwater runoff;
4. Reduce the community's overall carbon footprint;
5. Preserve natural amenities; and
6. Enhancement of social and economic benefits.

### B. Applicability

The regulations herein apply to all new development and any redevelopment or modifications that affect a Protected Tree.

### C. Exempted Trees

The regulations herein do not apply to the following trees:

1. Trees smaller than 6 inches DBH;
2. A dead or diseased tree, which is deemed beyond the point of recovery and at risk of spreading disease;
3. Trees that cause a safety hazard (e.g., blocking the clear sight triangle as required by **Sec. 38-2.H**);
4. Trees planted and growing on the premises for sale at a nursery or tree farm; or
5. Plants classified as a noxious species by the New Mexico Department of Agriculture.

### D. Protected Trees

1. Trees that are not exempt from preservation are considered Protected Trees and shall require a Tree Removal Permit from the Community Development Director, upon a determination that there are no feasible alternatives for site development. A Tree Removal Permit may be requested in conjunction with the Site Plan.
2. Protected Trees may be credited toward the landscaping requirements in **Sec. 38-7.D. Required Landscaping**, with each counting as three trees.
3. Protected Trees must be protected during construction activities in accordance with **Sec. 38-7.E. Critical Root Zone Protection**.
4. Any Protected Tree that is damaged resulting in death of the tree or removed without a Tree Removal Permit, including those damaged during construction or within two years following issuance of a Certificate of Occupancy, shall be subject to a fine in accordance with **Sec. 34-1.H. Violations and Enforcement**, which shall be assessed until the removed tree is mitigated in accordance with **Sec. 38-6.E** below.

## E. Replacement of Existing Trees and Tree Mitigation Plans

1. Any Protected Tree that is removed from a site must be replaced with a new or transplanted tree meeting the minimum size requirements in **Sec. 38-7.C.3.c)**.
2. Any applicant proposing to remove a Protected Tree must submit a Tree Mitigation Plan. The Tree Mitigation Plan shall be submitted to the Community Development Director for approval and may be prepared as part of a Landscape Plan, if applicable (see **Sec. 38-7.F. Landscape Plan**). The Tree Mitigation Plan shall show the following:
   a) Existing/proposed topography
   b) Location of property lines, easement, rights of ways, setbacks, parking areas, and sidewalks
   c) Location, species, size (in DBH inches), and Critical Root Zone (see **Sec. 38-7.E**) of each Protected Tree.
   d) A tree inventory that summarizes the following:
      i) Total number of DBH inches on the site (for trees two inches DBH and larger);
      ii) Total number of inches DBH to be removed;
      iii) Total number of inches DBH to be preserved;
      iv) Location of proposed new or transplanted trees to mitigate any removed Protected Tree;
      v) Any proposed landscaping credits for preserved Protected Trees; and
      vi) A summary of the tree protection methods to be utilized.

## Sec. 38-7. Landscaping

### A. Purpose

The City wishes to promote and preserve visually attractive and pleasing surroundings, reduce erosion and runoff, and improve the quality of the environment. The City desires to have development in an attractive and high-quality manner. Therefore, landscaping shall be provided and maintained as set forth in this section and in accordance with the Comprehensive Plan and the Parks and Recreation Master Plan.

### B. Applicability

The requirements herein apply to all new construction, additions, or structural modifications unless otherwise noted herein.

### C. General Requirements

1. Clear Sight Triangle

   Any landscaping in the Clear Sight Triangle must comply with **Sec. 38-2.H. Clear Sight Triangle**.

2. Irrigation System

   The irrigation system and the landscaping shall be installed before the issuance of a Certificate of Occupancy unless a written agreement has been made with the City to extend the time of installation (e.g., in the event of a drought). Such agreements will be for a maximum period of nine months. Irrigation systems must comply with the Technical Manual.

   a) Exemptions: In particular situations, the Community Development Director, following consultation with the City's Landscape Architect, may allow an irrigation system to be omitted or a temporary irrigation system installed to establish the plantings and then removed once plant material is established.

3. Approved Plant Materials

   a) It is the City's expressed desire to promote drought-tolerant species.

   b) The City shall maintain a list of approved plant materials, which is included within the Technical Manual. All required landscaping materials must be selected from this list.

      i) An applicant may request approval of a plant type not included on the approved list for consideration by the Community Development Director.

      ii) Turf, other than those identified on the recommended plant list, is not permitted.

         a. Exemptions: In particular situations (e.g., golf courses), the Community Development Director, following consultation with the City's Landscape Architect, may allow the use of other turf grasses.

      iii) Artificial trees, shrubs, and plants are not permitted.

   c) At the time of planting, all vegetation must meet the following minimum size requirements:

      i) Evergreen trees: 8 feet tall

      ii) Deciduous trees: 1.5-inch DBH single-trunk trees; 1.25-inch DBH for multi-trunk trees

      iii) Shrubs and ornamental grasses: 5-gallon container

   d) Plantings must have good structure and a good root system, including no girdling roots, with no flaws as defined by the American Nursery and Landscape Association American Standard for Nursery Stock, ANSI Z60.1 – 2004 or latest version.

   e) No single plant species shall be used for more than 50 percent of the required landscape materials.

f) The Community Development Director is authorized to limit species and placement to protect aboveground and underground infrastructure.

4. Installation Timing

   All required landscaping must be installed prior to issuance of a Certificate of Occupancy.

5. Maintenance

   a) The owner of the landscaped property shall be responsible for maintaining the area in a healthy, clean, trimmed, weed-free and litter-free condition. Proper irrigation, pruning, fertilizing and pest management are also included as maintenance.

   b) Landscape in parkways shall be maintained by the property owner of the contiguous property.

      i) Exemptions: Parkways that abut the rear property line of residential development and abut a Collector or Arterial Street shall be maintained by the City.

   c) Landscape in medians may be maintained by the City, adjacent property owner(s), homeowners' association, and/or other arrangement approved by the City.

   d) All approved landscape material must be maintained in a healthy, thriving condition, or must be replaced with the same or a substitution approved by the Community Development Director within 60 days. Maintenance shall be in accordance with ANSI A300.

   e) All plant growth shall be controlled so that it will not interfere with the installation, maintenance, or repair of any public utility, nor shall it restrict pedestrian or vehicular traffic or constitute a traffic hazard. This includes preventing plant growth from blocking the Clear Sight Triangle, as required by **Sec. 38-2.H. Clear Sight Triangle**.

   f) If a resident landscapes any property that is dedicated to the City, such resident is responsible for maintenance of that area until a written agreement is made to the contrary with the City.

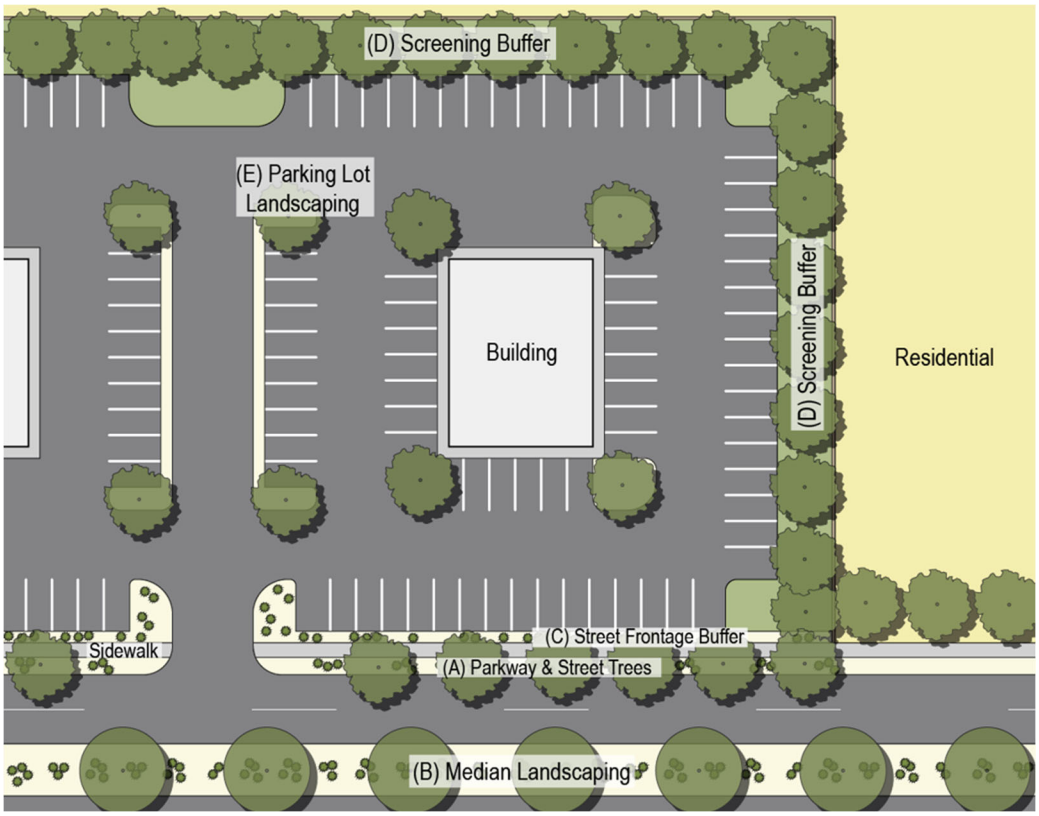
6. Payment in Lieu of Landscaping Parkways and Medians

   The Community Development Director, following consultation with the City's Landscape Architect, may determine that a payment in lieu of landscaping is acceptable in situations where meeting the above requirements is not feasible. Payment in lieu of landscaping may be approved by the Community Development Director, equal to the current costs of design, plantings and materials, construction, taxes, and contingencies that would otherwise be required to meet the standards herein.

## D. Required Landscaping

The following figure and table summarize the required landscaping types unless expressly exempt within each subsection:

**Figure 38-7-1. Required Landscaping Types**




| Landscaping Type | Requirement Summary | Applicability |
|---|---|---|
| (A) Parkway & Street Trees | Minimum 6' parkway width[1] with one tree per 30' of frontage along Streets in Urban Character Areas or 40' along Streets in Suburban Character Areas; plus one shrub per 25' feet of frontage. | Required on Arterials and Collectors for all new development or expansions of 20% or more. |
| (B) Median Landscaping | One tree per 250 square feet; plus one shrub per 250 square feet. | Required when the applicant constructs a street with a median or adjacent to an existing un-landscaped median. |
| (C) Street Frontage Buffer | Minimum 4' buffer extending the length of the parking or drive area with one shrub per 50 square feet of buffer. | Required for all new development (excluding 1-4 unit residential) or expansions of 20% or more when a parking lot or drive area is adjacent to the right-of-way. |
| (D) Screening Buffer | Varies; see **Sec. 38-8. Fencing, Screening, and Buffering**. | May be required depending on adjacent zoning; see **Sec. 38-8. Fencing, Screening, and Buffering**. |
| (E) Parking Lot Landscaping | Minimum 15% of the total parking area[2] shall be landscaped. A minimum of one live tree shall be provided for every 1,000 square feet of required landscaped area. A minimum of 20 live shrubs shall be provided for every 1,000 square feet of required landscaped area. One tree per 10 parking spaces. | Required for all development with more than 10 spaces in a surface parking lot. |
| (F) Lot Area Landscaping | Any unused area shall be retained in (or restored to) its natural state or landscaped in accordance with these standards. Residential lots (1-4 units) must have at least one tree in the front yard per 60' of frontage, in addition to any required street trees. | Required for all development. |

[1] Parkway width less than 6' requires approval from the Public Works Director and the Parks and Recreation Department.

[2] For the purposes of this section, the parking area includes the entire tract of land except for the building pad and fenced-in storage area.

1. Parkway & Street Trees
   a) Street trees and shrubs are required on all Arterial and Collector Streets within Suburban Character Areas or Urban Character Areas.
   b) Street trees and shrubs shall be placed in the parkway of the street, unless the Community Development Director requires different locations of trees based on a lack of adequate parkway, utility conflicts, topography, or a uniquely shaped lot.
      i) Exception: Residential lots with between one and four units may plant the required trees in the front yard.
   c) The spacing for all street trees shall be at 30 feet or less for streets in Urban Character Areas or 40 feet or less for streets in Suburban Character Areas. Street trees may be clustered, provided that the number of trees planted equals or exceeds the number that would be required if the trees were evenly spaced.
   d) Shrubs shall be provided at a rate of one shrub per 25 linear feet of parkway frontage in Suburban Character Areas or Urban Character Areas.
      i) Exception: Residential lots with between one and four units do not require shrubs.
   e) Median and parkway areas must be graded to initially retain stormwater within the median or parkway. Swales and small retention areas must be incorporated into the design such that stormwater runoff may be available to the trees and shrubs in addition to the irrigation water.
   f) The finished grade of the groundcover will be one-half inch to one inch below the back of curb or back of sidewalk.
2. Median and Public Area Landscaping
   a) These requirements apply to medians and other areas (e.g., subdivision entrances, drainageways, and rights-of-way) that are dedicated to the City or development adjacent to an un-landscaped median.
   b) Applicants shall submit plans for planting and irrigation for the approval of the Community Development and Parks & Recreation Departments, affected utilities and the State Highway Department, if appropriate, prior to construction. Any such dedication of land shall be in addition to the requirements for dedication of park land or fees in lieu thereof as stated in **Sec. 38-5. Parks, Trails, and Open Space**.
   c) The City has adopted landscape themes for medians that shall act as a guide for development of medians, which are included in the Technical Manual.
   d) Design guidelines for properties that are to be dedicated to the City shall be as follows:
      i) Grassed areas shall have a maximum design slope of 5:1, that is, five feet horizontal distance for every one foot vertical. Mounded groundcover areas shall have a maximum design slope of 3:1, that is, three feet horizontal distance for every one foot vertical.
      ii) Median and parkway areas must be graded to initially retain stormwater within the median or parkway. Swales and small retention areas must be incorporated into the design such that stormwater runoff may be available to the trees and shrubs in addition to the irrigation water.
      iii) The finished grade of the groundcover will be one-half inch to one inch below the back of curb or back of sidewalk.
      iv) Pedestrian crossing areas shall be surfaced with a hard paving suitable for foot and wheelchair traffic, consistent with the latest ADA and similar accessibility standards.
      v) All medians shall contain a minimum two-inch water stubout. Those medians in a series under one development shall contain one two-inch stubout and one two-inch conduit between medians which is suitable for electricity and water. The conduit shall be a minimum of four-inch class 200 PVC and shall be placed a minimum of 24 inches underground.

vi) All drainage, retention and detention areas shall be buffered in accordance with **Figure 38-8-4. Required Compatibility Screen Type**.

vii) All planting and irrigation installation must be generally located within the center of the median to avoid future potential widening of the roadways, additional or expanded turning lanes or other modifications to the median.

viii) Median noses that are five feet to ten feet wide (back of curb to back of curb) must not be planted. Only groundcover or patterned and colored concrete may be installed in these areas. Median noses that are less than five feet wide (back of curb to back of curb) must be covered with patterned, colored concrete. Patterns may be score joint, broomed finish, or stamped, or a combination thereof. Colors must be appropriate to a public streetscape and must not be red.

3. Street Frontage Buffers

   a) Street Frontage Buffers are required when a parking lot or other vehicular area is adjacent to a street or right-of-way, intended to help block light trespass from headlights onto adjacent properties or right-of-way.

   b) Street Frontage Buffers shall be at least four feet in width and shall extend the width of the property line abutting the street with an exception for defined vehicular or pedestrian access points.

   c) Street Frontage Buffers shall be planted at a rate of one shrub per 50 square feet of buffer.

4. Screening Buffers

   Screening Buffers may be required along side and/or rear lot lines depending on the adjacent zoning. See **Sec. 38-8. Fencing, Screening, and Buffering** for requirements.

5. Parking Lot Landscaping

   The following regulations apply to any new development or redevelopment.

   a) A minimum area equal to 15 percent of the total parking area shall be landscaped.

      i) For the purposes of this article, the parking area includes the entire tract of land except for the building pad and fenced-in storage area.

   b) A minimum of one live tree shall be provided for every 1,000 square feet of required landscaped area.

   c) A minimum of 20 live shrubs shall be provided for every 1,000 square feet of required landscaped area.

   d) A minimum of 1 tree per 10 parking spaces.

   e) Landscape areas must be defined by a curb unless designed as a stormwater retention facility. See **Sec. 38-4. Low-Impact Development and Green Infrastructure** and the Technical Manual for more information regarding incentives for incorporating sustainable design.

6. Lot Area

   a) Any portion of the site not used for buildings, parking, driveways, plantings, plazas or designated gathering areas, walkways, utilities, or approved storage shall be retained in (or restored to) its natural state or landscaped in accordance with the following standards:

      i) Living groundcover (as permitted by the approved plant list),

      ii) Organic materials such as mulch or wood chips, or

      iii) Inorganic materials such as decorative gravel or rocks.

   b) Materials must be permeable, with any weed barrier allowing the percolation of standing water within 72 hours.

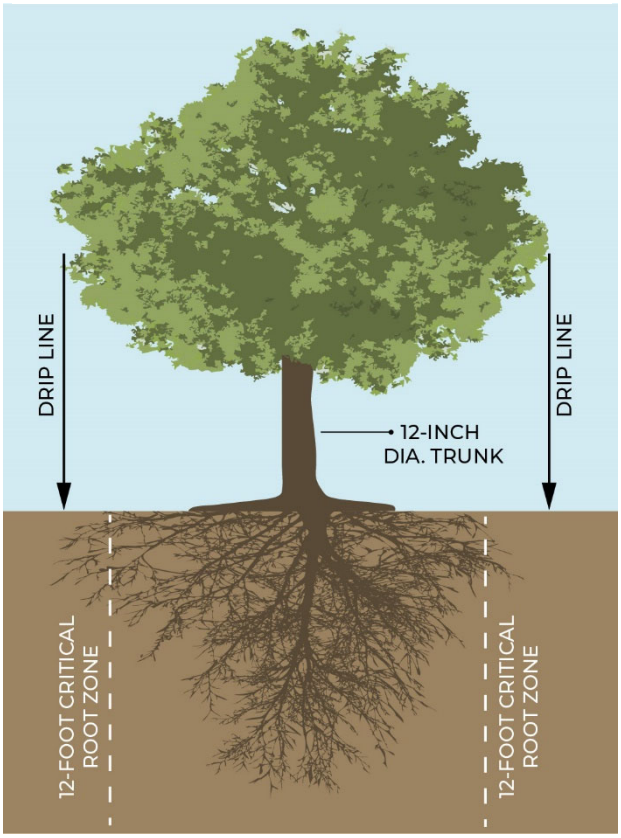
   c) Loose materials shall be contained by a curb or other suitable alternative to contain the materials within the landscaped area.

d) Residential lots (1-4 units) must have at least one tree in the front yard per 60 feet of street frontage, in addition to any required street trees.

## E. Critical Root Zone Protection

1. Every required tree shall have a Critical Root Zone (CRZ) surrounding the tree to protect the tree from damage or other harm.
2. The CRZ is measured as a radius outward from the trunk of the tree. The radius shall be determined based on ANSI A300 for the individual species. See **Figure 38-7-2** for an example.
3. The following activities are prohibited in the CRZ:
   a) Storage or parking vehicles, building materials, refuse, excavated soils, or dumping of poisonous or hazardous materials on or around the tree and roots. Poisonous or hazardous materials include, but are not limited to, paint, petroleum products, concrete or stucco mix, dirty water, or any other material that may be harmful to tree health;
   b) The use of tree trunks as a winch support, anchorage, temporary power pole, signposts, or other similar functions;
   c) Cutting of tree roots by utility trenching, foundation digging, placement of curbs and trenches, and other miscellaneous excavation without prior approval of the City;
   d) Soil disturbance or grade change;
   e) Vehicular traffic;
   f) Drainage changes that reduce the amount of drainage entering the CRZ; and
   g) Maintain adequate irrigation during construction.

**Figure 38-7-2. Example Illustration of Critical Root Zone and Drip Line**




4. The following restrictions apply during construction near the CRZ:
   a) All trees shall be protected by a fence, frame, or box constructed around the drip line of the preserved tree.
   b) A minimum of three inches of mulch or compost shall be spread beneath the drip line of the tree but must be kept four inches from the trunk.
   c) No person shall excavate any ditches, tunnels or trenches, place any paving material or place any drive or parking area within the drip line of any required tree without prior written approval of the Community Development Director at the time of Site Plan approval.
   d) No person shall attach any rope, wire, nails, advertising posters, or other contrivance to any required tree.

## F. Landscape Plan

1. A Landscape Plan indicating the following shall be submitted in conjunction with the application for the building permit for Community Development Director approval:
   a) Type, size, and location of landscaping;

b) A summary of the tree protection methods to be utilized for any Protected Tree or other tree required by this section;

c) Existing and planned driveways and streets with associated clear sight lines;

d) Topography; and

e) An irrigation plan showing the type and size of pipes and heads;

2. All plans shall be at a scale of one inch equals 10 feet or one inch equals 20 feet.
3. The Landscape Plan shall include the following statements:
   a) "The owner is responsible for all landscaping maintenance, including the repair or replacement of any required landscaping."
   b) "An irrigation system will be designed, installed, and functional prior to the approval of the Certificate of Occupancy" (unless the requirement for an irrigation system is specifically waived by the City).
4. The Landscape Plan may include a Tree Mitigation Plan, if applicable (see **Sec. 38-6.E.2**).

## Sec. 38-8. Fencing, Screening, and Buffering

### A. Purpose

The purpose of this section is to establish when fencing, screening, or buffering is required to promote land use compatibility and a positive aesthetic appearance. Additionally, this section provides regulations related to the height, placement, and other considerations for both required and non-required fencing, screening, and buffering.

### B. Applicability

1. The regulations included herein apply to all changes in occupancy or new development or expansions greater than 10 percent of the building footprint.
2. Screening must be installed prior to the issuance of a Certificate of Occupancy. All required fencing, screening, or buffering devices shall be permanently and continually maintained in a neat and orderly manner as a condition of use. The Certificate of Occupancy may be revoked for failure to adequately maintain such device.

### C. General Regulations

1. Placement
   a) No fence, screen, buffer, or any other object may be placed within the Clear Sight Triangle. See **Sec. 38-2.H. Clear Sight Triangle** for more information.
   b) No wall or fence shall be permitted in a public right-of-way or easement, unless an encroachment agreement is obtained and approved by the City's right-of-way coordinator.
      i) If written approval of the governing agency, affected utility or individuals is obtained, a wall or fence may be placed on an easement.
2. Materials and Appearance
   a) Materials shall consist of one or more of the following materials (see **Figure 38-8-1**), unless otherwise stated:
      i) Brick masonry, stone masonry, concrete block, or other architectural masonry finish; or
      ii) Tubular steel (primed and painted) or wrought iron fence with masonry columns spaced a maximum of 20 feet on center with structural supports spaced every 10 feet, and with sufficient evergreen landscaping to create a solid screening effect; or
      iii) Living plant screens (Evergreen shrubs with a minimum of three feet in height at the time of planting) that will not be detrimental to adjacent property and will provide sufficient visual screening based on the proposed location and characteristics of the project; or

**Figure 38-8-1. Examples of Acceptable Screening Materials**







iv) Alternate equivalent screening that provides an exceptional screening aesthetic, meets sound structural practices and engineering design criteria, meeting the intent and function of this Section at the discretion of the Community Development Director.

b) All required screening devices must be equally finished on both sides.

c) All openings in the surface for passage shall be equipped with gates equal in height and screening characteristics specified below, but need not be of the same material as the main fence or wall.

d) Where a screening device is constructed, placed or planted on uneven terrain, there shall be no gap under the device, and the device must be composed of the same material throughout.

3. Common Walls or Fences

a) A Common Wall or Common Fence shall not be constructed or structurally altered in any manner without the written consent of adjacent property owners who share or will share ownership of the wall or fence.

b) Written consent must be submitted at the time of request for a building permit.

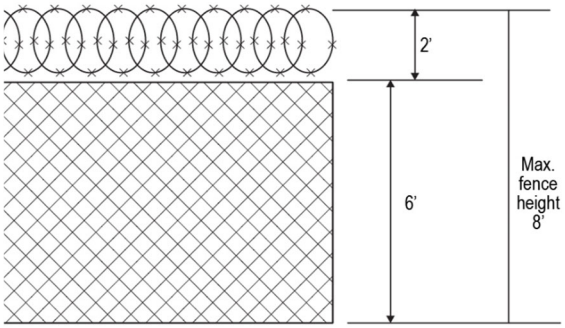
4. Retaining Walls

Retaining wall requirements are found in the Technical Manual. The proposed retaining wall design shall be submitted by the property owner/applicant to the Community Development Director and Public Works Director for approval consideration.

5. Barbed Wire and Other Similar Types of Containment Wire

a) Barbed wire and other similar types of containment wire (e.g., horse wire, “no climb” wire, and access-prohibiting wire) is permitted only when located at least six feet above the highest adjacent ground surface and will be included in the overall measurement of the fence or wall (see **Figure 38-8-2**). Such fences shall not exceed a maximum of eight feet in height.

**Figure 38-8-2. Barbed Wire**




b) Barbed wire and other similar types of containment wire are permitted only in the following locations:

i) In any district in conjunction with a commercial agricultural use, equestrian use, utility substation, detention facility use, or use located on airport property;

ii) CR, Commercial/Retail District (Rural, Suburban, Urban);

iii) LI, Light Industrial District (Rural, Suburban, Urban); or

iv) HI, Heavy Industrial District (Rural, Suburban, Urban).

c) Barbed wire and other similar types of containment wire shall not be permitted in the required front yard of any property, except those listed in **i) above**.

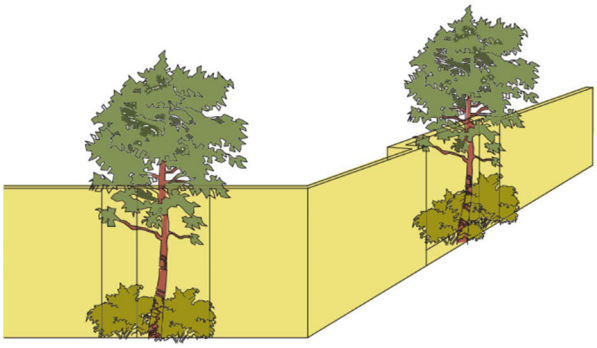
6. Chain-Link Fencing

Chain-link fencing shall be prohibited in front of the building face or on property lines adjacent to roadways with a Collector Street designation or higher.

7. Street-Facing Screening Wall Design

   Walls or fences 50 feet in length or longer along public streets must include features to avoid the appearance of blank walls facing the street. These features may include, but are not limited to, changes in depth, changes in texture or masonry patterns, columns, artwork, and/or landscaping shall be employed along the periphery to avoid the monotony of a large, blank surface.

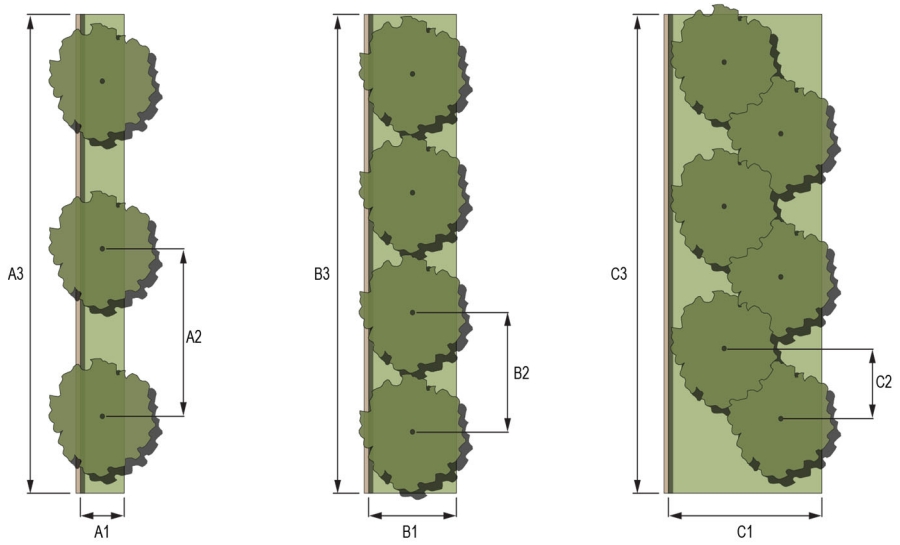
**Figure 38-8-3. Screening Wall Design Example**



## D. Required Buffer Yards

1. Buffer Yards are required between differing district types as indicated in **Figure 38-8-4**.
   a) Buffer Yards are not required when the sites are separated by a public roadway.
2. Buffer Yards shall be placed along the shared lot line on the property of the subject property district (according to **Figure 38-8-4**), with the wall along the property line. The property owner in the more intensive district is responsible for installing and maintaining the screening.
3. Buffer Yards may include screening walls, landscaping, drainage facilities, green infrastructure and low-impact development elements, walls and fences, but not parking or any permanent structures taller than the screening wall height.
4. The Community Development Director may modify or reduce the requirements within this **Sec. 38-8.D. Required Buffer Yards** to authorize an alternative configuration of buffering and/or other techniques that would result in an equivalent or improved appearance and compatibility with adjacent existing and future development.

**Figure 38-8-4. Required Compatibility Screen Type**




Type A
A1 = 10 ft deep buffer
A2 = 35 ft on center tree spacing
A3 = 6 ft tall masonry wall along property line

Type B
B1 = 20 ft deep buffer
B2 = 25 ft on center tree spacing
B3 = 6 ft tall masonry wall along property line

Type C
C1 = 35 ft deep buffer
C2 = 15 ft on center tree spacing
C3 = 6 ft tall masonry wall along property line

| | Adjacent Zoning District | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Subject Property District (District below required to install buffer) | NH-1 District | NH-2 District | NH-3 District | CR District | LI District | HI District | OS-1 District | OS-2 District |
| NH-1 District | - | - | - | - | - | - | - | - |
| NH-2 District | - | - | - | - | - | - | - | - |
| NH-3 District | Type A | - | - | - | - | - | - | - |
| CR District | Type B | Type A | - | - | - | - | Type B | - |
| LI District | Type C | Type B | Type A | Type A | - | - | Type B | - |
| HI District | Type C | Type C | Type B | Type A | Type A | - | Type C | - |
| OS-1 District | - | - | - | - | - | - | - | - |
| OS-2 District | Type C | Type C | Type B | Type A | Type A | - | Type C | - |

## E. Required Screening

All development (excluding residential development with four or fewer units) shall comply with the following screening standards.

1. Dumpster/Waste Container Areas

   Dumpster enclosures shall be constructed of non-combustible screening material and shall be compatible in terms of color, texture, and scale that are used in the main building with which the dumpster enclosure is associated. Acceptable screening materials include rock, brick, and minimum twenty (20) gauge steel with a maximum one-quarter (1/4) inch gap between panels and one-quarter (1/4) inch in diameter holes. Dumpsters shall be screened with opaque to semi-opaque material on three sides and a gate (for easy access) on the fourth side. The screening and gate must be a minimum of twelve inches higher than the lid of the open container/dumpster. The dumpster enclosure shall be permitted a maximum two (2) inch gap from the bottom of the screening to grade to allow for the cleaning.

**Figure 38-8-5. Example of a Screened Dumpster**



2. Dumpsters are required for all commercial development.
   a. Exceptions:
      i. An existing developed lot that does not meet the City of Las Cruces Utility Standards to include dumpster and enclosure.
      ii. Alternatives for a dumpster may be approved by the City of Las Cruces Utility Department.
3. Mechanical/Utility Equipment

   a) Mechanical/utility equipment must be screened from view from all angles using landscaping or walls in a manner that conceals the equipment. Such screening must remain consistent with the landscaping and architectural character (especially in terms of color, physical style, and scale). A screening wall shall be at least six feet in height and no more than one foot taller than needed to screen the equipment, as determined by the Community Development Director.

   b) When located on a rooftop or otherwise attached to the building, mechanical/utility equipment shall be screened from view through the use of building design elements such as varied roof height, parapets, etc. In instances where adjacent rights-of-way are significantly higher in elevation to adjacent properties, rooftop equipment should be screened to the best extent possible. When the chosen architectural style selected does not lend itself to using these techniques, such equipment must be shielded from view by an opaque screen that is treated in a manner that most accurately matches the look, design, and texture of the building to which it is attached.

**Figure 38-8-6. Example of Screened Ground-Mounted Equipment**



   c) Exterior mechanical/utility equipment mounted on building facades shall be prohibited unless used as an integrated architectural design feature and painted in a color that blends in with their visual

background and/or building to which they are attached.

4. Outside Storage

   Any outside areas containing storage materials, whether directly for sale or otherwise, shall, at minimum, be fully enclosed on four sides with a masonry wall between 6 and 8 feet in height, (or taller if needed to be fully sight-obscuring), and must be set back at least as far as the main building's front facade. Outside storage screening walls must be compatible with the architectural character of the development, especially in terms of color, texture, physical style, and scale.

   a) Screening of outside storage is not required in the HI, Heavy Industrial District (Rural, Suburban, Urban), unless the property is adjacent to another zoning district

   b) The Community Development Director may modify these requirements based on intensity and amount of storage materials and the surrounding development/zoning (e.g., a plant nursery).

5. Parking Structures

   Structured parking visible from a public right-of-way or from any NH District shall be screened by one of the following methods (or a combination thereof) with the exception of ingress and egress points:

   a) Liner Buildings that surround the parking structure;

   b) Solid walls meeting the material and articulation requirements of **Sec. 36-4.C. Nonresidential, Mixed-Use, and Multi-Family Development** that are aesthetically consistent with any associated buildings; or

   c) Alternative screening methods approved by the Community Development Director, such as:

      i) Landscaping that screens at least 50% of pedestrian-level parking garage facades immediately upon installation, with species selected to eventually provide a full 100% screening;

      ii) Incorporation of Glazing techniques that mimic a typical building; or

      iii) An artistic covering that fully screens the view of vehicles, which may include murals, sculptures, lighting, and other materials that create an interesting appearance consistent with the remainder of the development.

6. Auto Storage and Salvage Yards

   a) Automotive storage and salvage yards shall be fully enclosed on four sides and fully sight-obscuring from public right-of-way and from view of any NH District.

   b) Exceptions:

      i) Automobiles currently for-sale or parked for less than a 24-hour period do not require screening.

      ii) Screening of automotive storage and salvage yards is not required in the LI, Light Industrial District (Rural, Suburban, Urban) or the HI, Heavy Industrial District (Rural, Suburban, Urban), unless the property is adjacent to another zoning district.

7. Loading Docks/Bays and Service Areas

   Loading and unloading zones must be screened from the street via landscaping, walls, fencing, etc. Screening shall be sight obscuring (semi-opaque at minimum) and a minimum of 6 feet in height.

## F. Other Required Fences

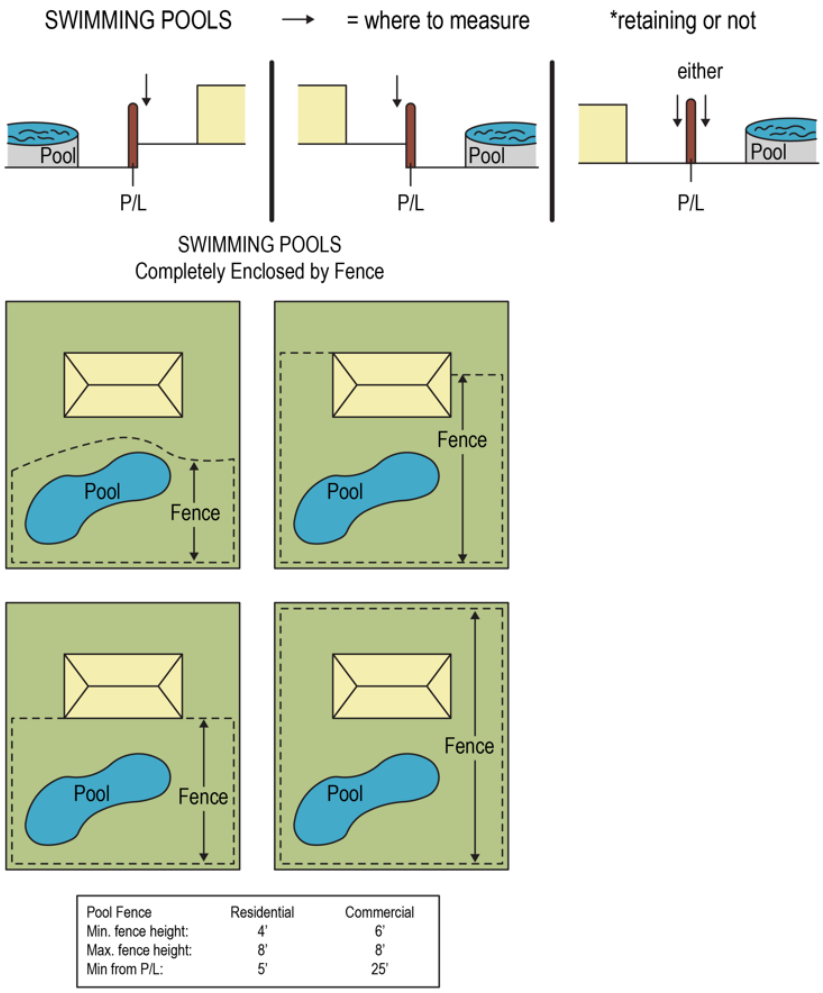
1. Swimming Pools, Whirlpools, Hot Tubs, and Other Similar Structures

   a) All water recreational structures, except commercial or public swimming pools, shall be completely enclosed by a wall or fence at least 4 feet in height. A minimum 4-foot fence or wall completely enclosing the entire yard or portion thereof where the structure is located will satisfy this requirement. All gates in fences shall be self-closing and equipped with self-latching devices.

   b) For commercial or public swimming pools, a protective fence or wall no less than 6 feet in height shall be provided which completely encloses the pool area, and the pool shall be no closer than 25 feet from any property line. All gates in fences shall be self-closing and equipped with self-latching devices.

   c) All other Building Code requirements for the construction of swimming pools and other similar structures shall be met.

**Figure 38-8-7. Swimming Pool Enclosures**




| Pool Fence | Residential | Commercial |
|---|---|---|
| Min. fence height: | 4' | 6' |
| Max. fence height: | 8' | 8' |
| Min from P/L: | 5' | 25' |

## G. Maximum Fence or Wall Height

The following requirements apply to all fences and walls, unless alternative screening is required by this **Sec. 38-8. Fencing, Screening, and Buffering**.

1. Method of Measurement

   The height measurement of a wall or fence shall be made on the side of the wall or fence at the lowest non-artificially raised grade level.

2. Maximum Fence or Wall Height for Residential Land Uses

   a) Fences or walls within the required front yard setback: 4-foot maximum height.

      i) Exception: Arches or entryways are permitted in required front yard setbacks in accordance with the following (see **Figure 38-8-8**):

         a. Maximum height of 8 feet permitted.

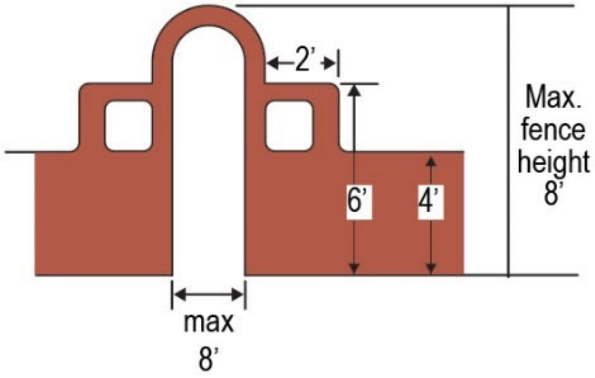
         b. Arch width shall not exceed 8 feet.

         c. A "step-down" design is permitted in conjunction with the arch. A 2-foot length on both sides of the arch is permitted at a height not to exceed 6 feet.

         d. Maximum of one arch or entryway is permitted in the required front yard.

         e. Arches or entryways are permitted behind the required front yard setback at any width, with a maximum height of 8 feet.

**Figure 38-8-8. Arches or Entryways in the Front Yard Setback**




   b) Fences or walls within the required rear and side yard setback: 8-foot maximum height.

   c) Fences or walls on corner lots: A maximum height of 8 feet shall be permitted on the secondary front yard, behind the primary required front yard setback. However, Clear Sight Triangle requirements shall be met (see **Sec. 38-2.H. Clear Sight Triangle**).

3. Maximum Height for Nonresidential Land Uses

   a) Fences or walls within the required front yard setback: 6-foot maximum height.

   b) Fences or walls within the rear and side yard setback: 8-foot maximum height.

   c) Fences or walls on corner lots: A maximum height of 8 feet shall be permitted on the secondary front yard, behind the primary required front yard setback. However, Clear Sight Triangle requirements shall be met (see **Sec. 38-2.H. Clear Sight Triangle**).

## Sec. 38-9. Outdoor Lighting

### A. Purpose

The purpose of this section is to provide regulations for outdoor lighting that will:

1. Permit reasonable uses of outdoor lighting for nighttime safety, utility, security, productivity, enjoyment, and commerce.
2. Be useful, targeted, low-level, and controlled, minimizing adverse offsite impacts including light trespass, and obtrusive light.
3. Curtail light pollution and improve the nighttime environment.
4. Help protect the natural environment and wildlife from the adverse effects of night lighting through the use of warm-colored lighting.
5. Conserve energy and resources to the greatest extent possible.

### B. Applicability

1. Except as described below, all outdoor lighting shall comply with these requirements and the City's Traffic Signal and Street Lightings Approved Products List. This applies to any lighting device located exterior to a structure or that illuminates areas exterior to a structure, whether permanently or temporarily installed, or any other lighting, whether attached to structures, poles, the earth, or any other location, including lighting installed by any third party. This includes, but is not limited to:
   a) New lighting
   b) Replacement lighting
   c) Search light(s)
   d) Spotlight(s)
   e) Flood light(s)
   f) Security lighting
   g) Architectural lighting
   h) Lighting for parks, parking lots, roadways
   i) Commercial/ Public Athletic facility lighting
   j) Building overhang and open canopy lighting
   k) Product display area lighting
   l) Landscape lighting
   m) Mobile vendor lighting
   n) Other lighting not in direct conflict with this section.
2. The following are not regulated by this section:
   a) Lighting within public right-of-way or easement for the principal purpose of illuminating streets or roads. No exemption shall apply to any lighting within the public right-of-way or easement when the purpose of the luminaire is to illuminate areas outside the public right-of-way or easement.
   b) Repairs to existing luminaires. This does not include retrofitting old lighting devices for new ones.
   c) Temporary lighting for theatrical, television, performance areas and construction sites.

d) Underwater lighting in swimming pools and water features.

e) Temporary lighting and seasonal lighting provided that individual lamps are less than ten watts and 70 lumens.

f) Sign lighting (regulated by **Sec. 38-10. Signs**).

g) Open gas flames.

h) Emergency outdoor lighting.

i) The residential use of individual solar landscaping luminaires not exceeding property boundaries.

j) Construction lighting that does not exceed construction site boundaries.

k) Private residential recreational facilities (e.g. basketball court, batting cage, tennis court, etc.)

l) Any recognized historical structure/property.

3. The provisions of this section shall be considered to be the minimum requirements to meet the purpose expressed in **Sec. 38-9.A** of this section; however, nothing herein shall prohibit the Building Official from imposing greater requirements to ensure the promotion of health, safety, and welfare of the citizens of the City.
4. All outdoor lighting shall be installed in conformance with the provisions of this section, applicable electrical, building, and energy codes, applicable sections of the Las Cruces Municipal Code and manufacturer's instructions.

## C. Conflict

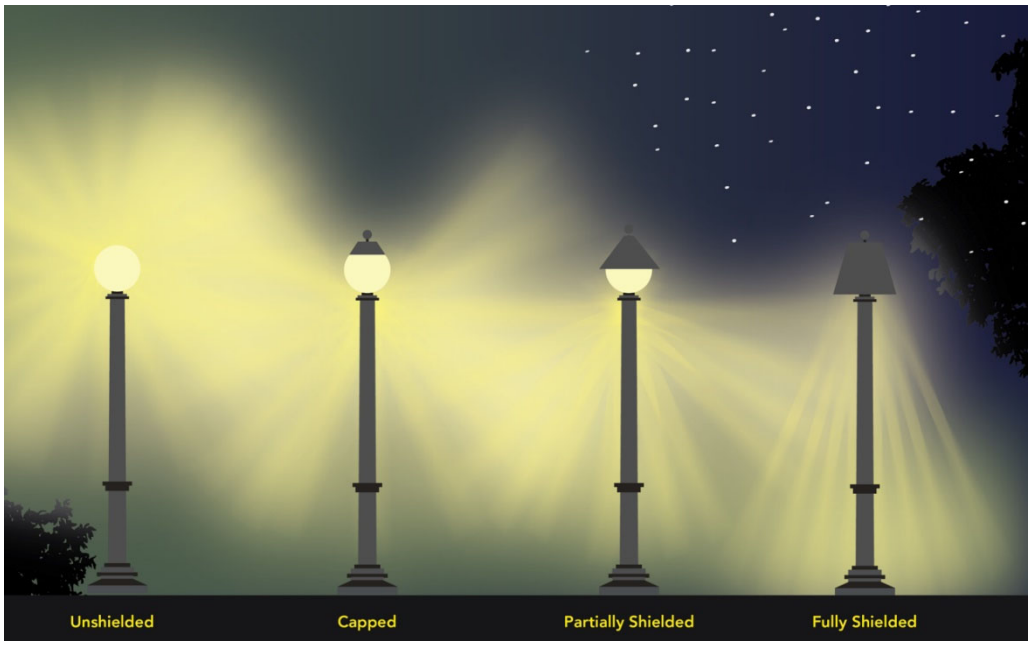
When the requirements herein conflict with specific lighting provisions of any of the following, only those specific provisions shall take precedence and all other requirements herein shall remain in force:

1. Lighting required by federal or state laws or regulations.
2. When proposed, the conflicting regulation shall be submitted at the time of permit submittal.

## D. General Requirements

All outdoor luminaries not specifically exempted above shall be fully shielded. Fully shielded fixtures encase the light source to prevent any light from escaping upwards or sideways. Only light directed downwards is allowed, ensuring that the illumination is limited to the target area.

**Figure 38-9-1. Illustration of Fully Shielded Lighting**



## E. Lighting Zones

1. Lighting zones are established to align with adopted zoning districts. The lighting zone shall determine the limitations for commercial lighting as specified in this section.
2. When two or more zoning districts are shown on a property, the more restrictive shall apply unless approved by the Community Development Director.

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## F. Residential Lighting

1. Applicability

   The requirements herein apply to residential properties with one to four units per lot.

   a) Lighting fixtures shall be installed in a manner that restricts light from glaring into adjacent properties.

## G. All Other Lighting

1. Applicability

   The requirements herein apply to all properties except residential properties with one to four units per lot.

2. Total Initial Lumens Per Property

   a) The total installed initial lamp lumens of all outdoor lighting systems on the property shall not exceed the total site lumen limit. The total property lumen limit shall be determined using the impervious area method (**Figure 38-9-**).

3. Limits to Off-Site Impacts

   All luminaires, unless noted otherwise, shall be rated and installed according to **Figure 38-9-3**.

4. Adjustable mounting devices prohibited except as needed to conform with **Sec. 38-9.G.8** and **Sec. 38-9.H**.

5. Automatic Daylight Switching Requirements

   a) Controls shall be provided that automatically extinguish all outdoor lighting when sufficient daylight is available using a control device or system such as a photoelectric switch, astronomic time switch or equivalent functions from a programmable lighting controller, building automation system or lighting energy management system.

   b) Automatic lighting controls are not required for the following:

      i) Lighting under parking canopies.

**Figure 38-9-2. Allowed Total Initial Lumens per Property for Commercial Outdoor Lighting, Impervious Area Method**

Note: When lighting intersections of property drives and public streets or road, a total of 600 square feet for each intersection may be added to the actual property impervious area to provide for intersection lighting.

| | | | | |
|---|---|---|---|---|
| | | | | |

| OS-1, OS-2, H | NH-1 | NH-2, NH-3, HP, SMO, ADO | CR, LI, HI, TCO, MXCO, UD, DDC | AOD, LCIIP | PUD |
|---|---|---|---|---|---|
| 1.5 lms/sq.ft. | 2.5 lms/sq.ft | 4.0 lms/sq.ft. | 8.0 lms/sq.ft. | 12 lms.sq.ft. | DESIGNATION |

ii) Lighting for tunnels, parking garages, garage entrances, and similar conditions.

iii) Approved emergency outdoor lighting.

**Figure 38-9-3. Maximum Allowable Backlight, Uplight, and Glare (BUG) Ratings**

Note: A luminaire may be used if it is rated for the lighting zone of the property or lower in number for all ratings B, U and G. Luminaires must be installed according to its manufacturer's specifications. A luminaire certified as a full cutoff luminaire shall be deemed as meeting the uplight requirement.

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| MAXIMUM BUG RATING | FEET FROM PROPERTY LINE | | |
|---|---|---|---|
| **ZONING DISTRICT** | 0 TO 30 FEET | 30+ TO 60 FEET | 60+ FEET |
| NH-1 | B0-U0-G1 | B2-U0-G1 | B3-U0-G1 |
| NH-2, NH-3, ADO, SMO | B0-U1-G0 | B3-U1-G1 | B4-U1-G2 |
| CR, LI, HI, TCO, MXCO, UD, DDC | B1-U2-G0 | B4-U2-G1 | B5-U2-G3 |
| OS-1, OS-2, H | B0-U0-G0 | B0-U0-G0 | B0-U0-G0 |
| AOD, LCIIP | B2-U3-G1 | B4-U3-G2 | B5-U3-G4 |
| NOTES | NOTES 1 & 2 FOR THIS COLUMN | NOTES 1 & 3 FOR THIS COLUMN | NOTES 1 & 3 FOR THIS COLUMN |

[1] The luminaire must be mounted with backlight (without shields) towards the property line.

[2] For property lines that abut public walkways, bikeways, plazas, and parking lots, the property line may be considered to be five feet beyond the actual property line for purpose of determining compliance with this section. For property lines that abut public roadways and public transit corridors, the property line may be considered to be the centerline of the public roadway or public transit corridor for the purpose of determining compliance with this section. NOTE: This adjustment is relative to this figure only and shall not be used to increase the lighting area of the site.

[3] Building-mounted luminaires that cannot be mounted with their backlight (without shields) to the property line shall meet the allowed glare rating for all luminaires. Light from a building-mounted luminaire must not exceed the B rating in the direction of the property line.

6. Automatic Lighting Reduction Requirements
   a) Total outdoor lighting lumens shall be reduced (by at least 30 percent) or extinguished at 11:00 p.m. or 30 minutes after the close of business, whichever is later.
   b) Lighting reductions are not required for any of the following:
      i) Approved emergency outdoor lighting;
      ii) Code required lighting for steps, stairs, walkways, and building entrances;
      iii) When, in the opinion of the Building Official, lighting levels must be maintained;
      iv) Motion-activated lighting; or
      v) Businesses that operate on a 24-hour basis.
7. Emergency Outdoor Lighting
   a) The lumens allowed for approved emergency outdoor lighting shall be allowed in addition to the total property lumen limit for that property.
   b) Approved emergency outdoor lighting shall not be subject to the limits to off-site impacts for that property.
   c) Approved emergency outdoor lighting shall not be subject to the automatic lighting reduction requirements. Approved emergency outdoor lighting shall not be subject to the automatic switching requirements.
8. Architectural Illumination
   a) A separate allowance of lumens for architectural lighting will be allowed in the amount of ten percent of the calculated installed property lumens.
   b) The luminaires used for architectural lighting shall be designed, fitted and aimed to shield the lamp and its reflective surfaces from off-site view and to place the light output onto and not beyond the building.

## H. Flag Lighting

1. Flag lighting sources shall not exceed 7,000 lumens per flagpole.
2. The light source and shall be shielded so the light source (lamp and reflector) is not visible at normal viewing angles.

## I. Alternate Materials and Methods of Construction, Installation, and Operation

The provisions of this code are not intended to prevent the use of any design, materials, or method of installation or operation not specifically prescribed by this section, provided any such alternate has been approved. The Community Development Director may approve any proposed alternative provided they find that it has been designed by a registered design professional and is supported by calculations showing that the design submitted meets the intent of the Code. This section shall not have the effect to waive any requirements of this Code.

## J. Complex and Non-conforming Use (For Commercial and Residential Lighting)

1. High intensity and special purpose lighting. The following lighting systems are prohibited unless approved by the Community Development Director.
   a) Temporary lighting in which any single luminaire exceeds 20,000 lumens or the total lighting load exceeds 160,000 lumens.

b) Aerial lasers.

c) Searchlights.

d) Other very intense lighting defined as having a light source exceeding 20,000 lumens or an intensity in any direction of more than 2,000,000 candelas.

2. Complex and nonconforming uses.Lighting not complying with the technical requirements of this section but consistent with its intent may be installed for complex sites or uses or special uses including but not limited to the following applications:

a) Sports facilities, including but not limited to unconditioned rinks, open courts, fields, and stadiums;

b) Construction lighting greater than 20,000 lumens or exceeds project boundaries;

c) Lighting for industrial sites having special requirements, such as petrochemical manufacturing or storage, shipping piers, etc.;

d) Parking structures;

e) Urban parks;

f) (Decorative and architectural lighting of bridges, public monuments, and public buildings;

g) Theme and amusement parks; or

h) Projected images and movies, including drive-in theaters.

3. These proposed lighting installations shall demonstrate that they have sustained:

a) Every reasonable effort to mitigate the effects of light on the environment and surrounding properties, supported by a signed statement describing the mitigation measures. Such statement shall be accompanied by the information required for a commercial plan submittal.

4. The Community Development Director shall review each such application. A special lighting permit may be granted if, upon review, the Community Development Director believes that the proposed lighting will not create unwarranted glare, sky glow, or light trespass.

## K. Plan Submittals

1. Plan submittals for projects involving outdoor lighting shall contain all the information required by the City of Las Cruces Building Code (Chapter 30, Las Cruces Municipal Code).

2. In addition, evidence of compliance with the requirements of this section shall be provided by including an outdoor lighting site plan (labeled as sheet OLP in the submitted plan set) consisting of the following:

a) Calculations showing total site lumens.

b) Locations of all proposed outdoor luminaires (including site, parking lot, parking canopies, walkways/sidewalks, building-mounted, under-canopies, architectural, landscape, flagpole, external signage lighting, etc.). This includes all normal and emergency outdoor lighting. Lumens shall be listed for all luminaires; BUG ratings shall be provided for all luminaires.

c) A fixture schedule that includes all luminaires shown on the plan(s). The schedule shall include, at a minimum:

i) Fixture type/mark;

ii) manufacturer; catalog/part number;

iii) lamp quantity per luminaire;

iv) lamp type;

v) lamp initial lumens for all new luminaires and BUG rating for each existing luminaire;

vi) mounting height of the luminaire above finished grade, description/comments; and

vii) maximum BUG rating for the location.

d) City ordinance requires most sites to reduce the outdoor illumination by a minimum of at least 30 percent or extinguished at 11:00 p.m. or 30 minutes after the close of business. The lighting plans shall therefore be prepared in a fashion that clearly identifies which fixtures are to remain on all night for security lighting purposes. This identification can be accomplished via fixture shading, keynotes, or the creation of a separate after-hours lighting/photometric plan designated OLS in the plan set.

e) A note shall be placed on the lighting plan which identifies the time(s) at which the site will enter security-lighting-only mode, and a general description of the device(s) that will automatically be controlling the lighting.

f) A pole detail for each type of pole light shall be included in the submittal. This detail shall include, at a minimum: Mounting height of the luminaire(s) as measured from the fixture lens to the finished grade of the parking lot, the fixture type of the luminaires mounted on the pole.

g) A complete date for the current plan, and complete dates for all prior versions of the plans that were submitted to the City.

h) A contact name and phone number for the preparer of the lighting submittal.

i) All components shall be on one sheet. Failure to comply will result in plans being returned and not reviewed.

3. Additional information may be required by the Building Official or the Community Development Department in order to determine compliance with this section.

4. A description of luminaires, sufficient to demonstrate compliance with this section, including lamps, poles or other supports and shielding devices, provided as catalogue illustrations from the manufacturer, and photometric data, such as that furnished by the manufacturer, showing the downward angle of light emission shall be available on the jobsite with the approved set of plans.

## L. Legal Nonconforming Lighting

1. Lighting installed prior to the effective date of this section shall comply with the following:

   a) Any new luminaire or new outdoor lighting shall meet the requirements of this section for new outdoor lighting.

   b) A legally installed luminaire existing as of the date of this section is exempt from the provisions of this section except that any replacement lighting must comply with the provisions of this section for new outdoor lighting.

   c) For the purposes of this section, a legally installed luminaire means a fixture that was permitted and installed in accordance with the adopted codes and regulations applicable at the time of installation but must be included in plan submittal for new lighting proposed to be installed.

2. Resumption of use after abandonment. If a property with nonconforming lighting is abandoned or remains vacant for a period of 12 months or more, then all outdoor lighting on the property shall be brought into compliance with the provisions of this section for new outdoor lighting before any further use of the property occurs or before a certificate of completion, certificate of occupancy, or business registration is issued.

3. Repairs, Alterations, Change of Occupancy, Additions, Historic Buildings, and Relocated Buildings

   a) Repairs

      Relamping or replacement of components of a legally installed luminaire existing as of the date of this section (including capacitor, ballast or photocell) shall be exempt from the provisions of this section.

   b) Minor Modifications, Additions, or New Lighting Fixtures for Nonresidential and Multi-Family Dwellings

For non-residential and multi-family dwellings, all additions, modifications, or replacement of more than 25 percent of outdoor lighting fixtures existing as of the effective date of this Code shall require the submission of a complete inventory and site plan detailing all existing and any proposed new outdoor lighting.

c) Change of Occupancy

Where the use in a space intensifies all outdoor lighting on the property shall be brought into compliance with the provisions of this section for new outdoor lighting before the change in use commences or before a certificate of completion, certificate of occupancy, or business registration is issued.

d) Additions

Where there is an extension or increase in floor area of 25 percent or greater, additional dwelling units, number of stories, or parking spaces all outdoor lighting on the property shall be brought into compliance with the provisions of this section for new outdoor lighting before a certificate of completion, certificate of occupancy, or business registration is issued.

4. Nuisance Lighting

If a light is deemed to be a hazard to vehicular or pedestrian traffic, an immediate remediation shall be required.

5. Multiple-Tenant Commercial Properties

a) Outdoor lighting associated directly with a specific tenant shall be treated as single-tenant commercial property.

## Sec. 38-10.Signs

### A. Purpose

1. The purpose of this section is to permit signs that will not, by their size, location, or construction, endanger the public health and safety of individuals.
2. Furthermore, it is the purpose of this section to maintain property values and to create a more aesthetically pleasing community, through the preservation of the natural beauty and environment of the City.
3. This section regulates the time, place, and manner of display of signs. It is not the purpose of this section to regulate the specific content of any sign.

### B. Applicability

1. This section shall apply to all new or expanded signs within the City limits.
2. The following are not included within the scope of these regulations:
   a) Signs posted by the City or other governmental entity;
   b) Banners legally attached to City or other public utility poles;
   c) Signs four square feet or smaller for display in an NH zoning district for less than one week;
   d) Signs placed on the lot of a for-sale model home;
   e) Signs placed inside of vehicles that are currently available for sale;
   f) Signs placed inside the field fence of an athletic field or stadium;
   g) Seasonal decorations; and
   h) Signs ancillary to business operations smaller than 6 square feet. Examples of such types typically include hours of operation, open/closed signs, service entrance signs, or menu displays.
3. Signage for Planned Unit Developments (PUDs)
   a) PUDs shall follow the regulations of this **Sec. 38-10. Signs** as applicable to the PUD base district (or primary use as determined by the Community Development Director).
   b) Applicants who wish to propose alternative signage shall submit a sign plan detailing the proposed signage location, dimensions, materials, lighting, and other features. Such a plan shall be reviewed and approved in conjunction with the PUD application.
4. All signs shall conform to the structural design requirements set forth in the International Building Code and companion documents.

### C. Sign Permit Required

1. A sign permit is required for all new or expanded signs, unless otherwise stated.
   a) Exceptions. A sign permit is not required for the following:
      i) Normal maintenance, painting, repainting, or cleaning of a sign with no structural changes; or
      ii) Replacement of a sign face that does not increase the area of the sign face or add any additional illumination.
2. Each application for a sign permit shall be accompanied by plans and other pertinent information as necessary to clearly depict the site location, height, weight, size, material, method of erection, and construction of said sign.

## D. Prohibited Signs

1. Any sign not expressly permitted within this **Sec. 38-10. Signs** is prohibited.
2. The following sign types are specifically prohibited:
   a) Billboards
   b) Inflatable or balloon signs
   c) Portable signs (other than a Sidewalk Sign)
   d) Signs with parts that move or spin to attract attention (other than an Electronic Reader Board)
   e) Snipe or bandit signs
   f) Streamers and pennants
   g) Vehicular signs
3. Any sign erected on, attached to, or painted on retaining walls, fences, rocks, or natural features is prohibited. This prohibition shall not include signs located at the entryway to a subdivision or signs located at athletic fields.
4. Any sign illegally placed, constructed, or maintained is prohibited.

**Figure 38-10-1. Examples of Prohibited Signs**

**Billboard**




**Portable Sign**




**Snipe or Bandit Signs**




**Inflatable or Balloon Sign**



**Vehicular Sign**




**Moving Sign**



**Streamer or Pennant**



## E. Method of Sign Measurements

1. Setbacks

   Setbacks shall be measured in linear feet from property lines to the leading edge of the sign.

2. Sign Area

   a) Sign Area shall be calculated in square feet, and by means of the smallest square, circle, rectangle, or combination thereof that will encompass the sign face and any framing, trim, or molding, and the supporting structure (see **Figure 38-10-2**).

   b) All attachments to signs or sign structures (whether temporary or permanent) shall be included as part of the total sign area for the sign to which they are attached.

   c) The area of signs with more than one face is measured by determining the sign area of all sides that are visible from any one vantage point, except only one side of a sign shall be measured if the two sides are back-to-back or separated by an angle of 45 degrees or less. If the two sides are not of equal size, the larger side shall be measured.

   d) For three-dimensional objects, the sign area is the sum of the two adjacent faces of a cube encompassing the object (see **Figure 38-10-3**).

**Figure 38-10-2. Sign Area Calculation**




3. Sign Height

   Sign height shall be measured in linear feet. The overall height of a sign structure is measured from the lowest elevation of the ground abutting the base of the sign to the highest point of the sign structure (see **Figure 38-10-4**).

**Figure 38-10-3. 3D Object Area Calculation**

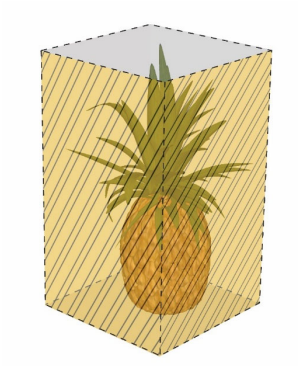


**Figure 38-10-4. Sign Height Calculation**



## F. Placement

1. No sign shall be permitted to violate the clear sight triangle as referenced in **Sec. 5-3.G. Clear Sight Triangle**.
2. No sign shall obstruct any door, stairway, fire escape or opening intended to provide ingress and egress for any building or structure.
3. Signs shall not be located in a manner that obscures or interferes with the effectiveness of any official sign, signal, or device. A sign shall not be placed at any location where it obstructs or interferes with the clear view of any traveler on any street.
4. Signs may only be placed in (e.g., bench signs, waste receptacle signs) or extend onto or over a public right-of-way or sidewalk when a specific exception is provided by the City Manager.
5. Any sign extending over an area intended for pedestrian use shall not be less than eight feet above the finished grade below it.
6. Any freestanding sign over 20 feet in height above grade or any sign extending above the public right-of-way shall require the seal of a Professional Engineer, indicating that the sign meets all best engineering practices and standards.
7. No permit for a sign that extends beyond private property onto a public street, public sidewalk, or public alley will constitute a permanent easement. Every such permit shall be revocable by the Community Development Director. The City shall not be liable for any damages to the owner because of such revocation.
8. No sign shall be placed or constructed on a property without permission from the property owner.

## G. Sign Types and Supplemental Standards

### Attached Signs

1. Awning or Canopy Sign

**Description**

A sign that is fastened to or painted on an awning or canopy.




**Supplemental Standards**

No Awning or Canopy Sign shall project into the right-of-way except when a building has a setback of less than five feet.

2. Projecting Sign

**Description**

A sign attached to a wall that projects from the building face for view from either side.




**Supplemental Standards**

A Projecting Sign may exceed the building height by up to 36 inches; however, no sign shall exceed the maximum building height of the zoning district.

Any sign projecting over the right-of-way shall not project more than eight feet into the right-of-way and shall meet the minimum clearance established in **Sec. 38-10.F.5** above. As noted in **Sec. 38-10.F.6**, signs projecting over the right-of-way require the seal of a professional engineer.

3. Roof-Mounted Sign

**Description**

Any sign that is attached to the roof of a building or structure.

**Supplemental Standards**

Signs shall be more than 24 inches in height; however, no sign shall exceed the maximum height of the zoning district.




4. Wall Sign

**Description**

Any sign affixed flush with or painted onto the wall of any building. This description does not include other instances of painted applications, such as murals, that have been recommended by the City Art Board.

**Supplemental Standards**

No Wall Sign may extend more than 12 inches in depth out from the wall to which it is attached. No Wall Sign may be extended above the roofline.




5. Window Sign

**Description**

Any sign displayed in or painted onto a window. This description does not include Ancillary Signs as described in **B.2.h)**.

**Supplemental Standards**

Permanent window signs may be substituted for wall signage with a corresponding reduction of wall signage.

A window sign does not include merchandise or models of products or services incorporated in a window display.



## Freestanding Signs

6. Menu Board Sign

**Description**

A sign located in the drive-through of a restaurant leading up to the drive-up window.




**Supplemental Standards**

The volume of the speaker shall not exceed ambient noise conditions as measured at the property line.

Any illumination must be discontinued at the close of business.

The design, materials, and finish of the sign shall match those of the building(s) on the same lot.

7. Monument Sign

**Description**

A Monument Sign is a freestanding sign constructed of masonry, metal, or similar weather-resistant materials with a concrete base that extends along the entire width of the sign.




**Supplemental Standards**

N/A

8. Pole Sign

**Description**

Any sign whose primary means of support is one or more poles set into a concrete footing, located at or below ground level.

**Supplemental Standards**

N/A




9. Sidewalk Sign

**Description**

A Sidewalk Sign is a moveable, self-supporting sign with a lightweight frame and base and an erasable or changeable surface. Sidewalk Signs are pedestrian-oriented and not intended to be read from passing vehicles.

**Supplemental Standards**

Sidewalk Signs may be placed on a public sidewalk if it does not reduce the clear area of the sidewalk to less than five feet.

One Sidewalk Sign is permitted per business. The sign shall only be placed outside during business hours.



## Temporary Signs

10. Feather Sign

**Description**

A Feather Sign is a tall, narrow flag that flutters in the wind, commonly used to attract attention to events or businesses. Feather Signs are considered temporary signs.




**Supplemental Standards**

Feather Signs must be set back at least 15 feet from a front property line.

Feather Signs shall not be placed in an easement or Clear Sight Triangle.

Feather Signs must be removed daily.

11. Political Sign

**Description**

A Political Sign is a temporary sign announcing or supporting political candidates or issues in connection with any national, state, or local election.




**Supplemental Standards**

No individual political sign shall exceed 32 square feet in sign area.

All political signs may be erected no sooner than 90 days before the election and/or caucus to which they pertain and shall be removed within ten days following the same election and/or caucus.

It is unlawful for any person, organization or political committee to publish or print or circulate any campaign advertising or communication which does not specify the name of the sponsor or the name of a responsible officer who authorized the printing or publication or circulation of such material in any municipal election or special election. Written, printed or posted materials shall also show a telephone contact number. If the advertisement is transmitted by audio or audiovisual media, the statement shall be both written legibly and spoken clearly. Disclaimers do not need to be printed on bumper stickers, pins, buttons, pens and similar small items.

Advertising on a duly permitted billboard shall be exempt from the size and time limits stated in this section.

Political signs are permitted to be placed on fences/walls (e.g., chain link fences, retaining walls, rock walls), but are not permitted

to be placed in clear sight triangles or in a manner that would prevent clear sight of vehicles (see **Sec. 38-2.H. Clear Sight Triangle**).

12. Development ID Sign

**Description**

A development identification sign means a permanent sign installed or constructed at the entrance/exit to a residential or commercial development to identify the development name and logo only.

**Supplemental Standards**

Development identification sign (permanent)

a.The maximum sign area shall not exceed 32 square feet.

b.The maximum height shall not exceed ten feet.

c.The sign may be placed in the public right-of-way, provided prior approval has been granted by city manager or official designee.

d.This sign may be used in addition to any other freestanding sign allowed pursuant to this chapter.

13. Temporary Ground Sign

**Description**

A Temporary Ground Sign is a small sign intended for short-term display. Examples of temporary ground signs typically include but are not limited to real estate signs, political signs, or construction signs.




**Supplemental Standards**

Each property is allowed one temporary ground sign per road frontage for up to six months per every 12-month period. The Community Development Director may allow an additional six-month extension if the property is actively listed for sale or at least one building on the site is actively listed for lease.

No permit is required for temporary ground signs.

All temporary ground signs must have a solid, durable backing that resists folding or twisting, and be anchored or fastened to the ground. The property or sign owner must replace any sign that becomes damaged or faded, or reflects more than three degrees off-center.

Temporary Ground Signs are allowed within the required setbacks; however, they are prohibited in the right-of-way.

Temporary Ground Signs shall not exceed 8 square feet for property zoned NH-1 or NH-2, or 24 square feet for all other districts.

In addition, up to four temporary ground signs may be displayed on an indefinite basis if placed within 10 feet of the primary structure within the NH-1, NH-2, or NH-3 districts.

14. Temporary Special Event Banner

**Description**

Temporary Special Event Banners are temporary banners displayed across a public roadway in support of a special event.




**Supplemental Standards**

A Sign Permit shall be obtained, indicating the dates of display, number of banners to be displayed, location(s) of display, etc., and must be approved by the Community Development Director. All Temporary Special Event Banners shall be installed and removed either by the City or the entity requesting the display.

If installed and removed by the City, permit fees shall be based on the number of banners to be installed/removed at a rate approved by the City Council (Resolution No. 23-074). Permit fees shall be paid by the applicant upon permit approval and in advance of sign installation.

If installed and removed by the entity requesting the display the City requires a minimum of $1,000,000 insurance, with the City being named as an additional insured party and the entity must provide a hold harmless indemnity agreement, not holding the City responsible for any accidents or loss in the installation/removal of the banners.

Temporary Special Event Banners shall be restricted to placement on City-owned utility/light poles only.

Temporary Special Event Banners shall only be displayed along City-approved roadways.

Temporary Special Event Banners shall be permitted to be displayed 1.5 times the length of the event being advertised, with a maximum of 21 days.

15. Temporary Wall Banner Sign

**Description**

A Temporary Wall Banner Sign is a lightweight, flexible banner affixed to the side of a building intended for short-term display. Examples of Temporary Wall Banner Signs typically include but are not limited to grand opening or special sale signs.




**Supplemental Standards**

Each nonresidential building or tenant with a valid Certificate of Occupancy is allowed to display a Temporary Wall Banner Sign for a period of no more than 30 days within a 12-month period.

Banners must be securely affixed to the wall and shall be immediately replaced or removed if the banner becomes damaged or worn.

Temporary Wall Banner Signs shall not exceed 24 square feet or 15 percent of the building/tenant facade, whichever is greater.

## H. Permitted Locations and Dimensional Standards

1. Permitted Locations

   Signs types are permitted by zoning district, as indicated in **Figure 38-10-5**.

2. Combined Maximum Area

   The maximum size is determined by the combined area of all attached signs and all freestanding signs. The maximum size for each grouping is indicated in **Figure 38-10-5**.

   a) For attached signs, the building on which the sign shall be placed is used to calculate the square footage of the sign. The exterior is considered the entire perimeter of the building.

   b) For freestanding signs, frontage is calculated based on the largest single frontage along the drive.

   c) For buildings with frontage on more than one street, the sign area is calculated by the longest frontage. Figure 38-10-5. Permitted Sign Locations and Standards

| Zoning Districts | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | NH-1, Neighborhood 1 District (Rural, Suburban, Urban) | NH-2, Neighborhood 2 District (Rural, Suburban, Urban) | NH-3, Neighborhood 3 District (Rural, Suburban, Urban) | CR, Commercial/Retail District (Rural, Suburban, Urban) | LI, Light Industrial District (Rural, Suburban, Urban) | HI, Heavy Industrial District (Rural, Suburban, Urban) | OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban) | OS-2, Open Space-Drainage District (Rural, Suburban, Urban) | MXCO, Mixed Use Corridor Overlay District | TCO, Town Center Overlay District | NCO, Neighborhood Center Overlay District |
| Attached Signs | Max. Combined Area of Attached Signs | | | | | | | | | | |
| | 1 linear foot of exterior wall = 1 sqft | | | 1 linear foot of exterior wall = 1.5 sqft | | | | | 1 linear foot of exterior wall = 1.25 sqft | | 1 linear foot of exterior wall = 1 sqft |
| Awning or Canopy Sign | | X | X | X | X | X | | | X | X | X |
| Projecting Sign | | X | X | X | X | X | | | X | X | X |
| Roof-Mounted Sign | | | | X | X | X | | | | | |
| Wall Sign | X | X | X | X | X | X | X | | X | X | X |
| Window Sign | X | X | X | X | X | X | X | | X | X | X |
| Freestanding Signs | Max. Combined Area of Freestanding Signs | | | | | | | | | | |
| | 0-100' frontage = 50 sqft<br>101-300' frontage = 75 sqft<br>301'+ frontage = 100 sqft | | | 0-100' frontage = 100 sqft<br>101-300' frontage = 150 sqft<br>301'+ frontage = 200 sqft | | | | | 0-100' frontage = 75 sqft<br>101-300' frontage = 125 sqft<br>301'+ frontage = 150 sqft | | 0-100' frontage = 50 sqft<br>101-300' frontage = 75 sqft<br>301'+ frontage = 100 sqft |
| Menu Board Sign | | | | X | X | X | | | X | X | |
| Monument Sign | X | X | X | X | X | X | X | X | X | X | X |
| Pole Sign | | | X | X | X | X | | | | | |
| Sidewalk Sign | X | X | X | X | | | X | | X | X | X |
| Temporary Signs | See individual sign types for dimensions | | | | | | | | | | |
| Feather Sign | X | X | X | X | X | X | X | X | X | X | X |
| Political Sign | X | X | X | X | X | X | X | X | X | X | X |
| Temporary Ground Sign | X | X | X | X | X | X | X | X | X | X | X |
| Temporary Special Event Banner | X | X | X | X | X | X | X | X | X | X | |

| | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Temporary Wall Banner Sign | X | X | X | X | X | X | X | | X | X | |

3. Maximum Number of Freestanding Signs

   Each lot or parcel shall be limited to one freestanding sign unless there is more than 600' of frontage (can be combined by adding both street frontages except in NH-1 zoning districts) than two freestanding signs are permitted.

4. Maximum Height

   The maximum height for freestanding signs is determined by zoning district and street class, as indicated in **Figure 38-10-6**.

5. Minimum Setback

   The minimum setback for the placement of freestanding signs is determined by street class, indicated in **Figure 38-10-6**. Setbacks are measured from the property line.

**Figure 38-10-6. Maximum Height and Minimum Setback for Freestanding Signs**

| Street Class | Maximum Height by Zone | | | | | | | | Minimum Setback | |
|---|---|---|---|---|---|---|---|---|---|---|
| | NH-1, Neighborhood 1 District (Rural, Suburban, Urban) | NH-2, Neighborhood 2 District (Rural, Suburban, Urban) | NH-3, Neighborhood 3 District (Rural, Suburban, Urban) | CR, Commercial/Retail District (Rural, Suburban, Urban) | LI, Light Industrial District (Rural, Suburban, Urban) | HI, Heavy Industrial District (Rural, Suburban, Urban) | OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban) | OS-2, Open Space-Drainage District (Rural, Suburban, Urban) | Front Yard | Side Yard |
| Local Street | 3' | 3' | 6' | 6' | 18' | 30' | 6' | 6' | 10' | 5' |
| Collector Street | 6' | 6' | 18' | 30' | 30' | 30' | 12' | 12' | 12' | 5' |
| Minor Arterial | 6' | 6' | 30' | 30' | 30' | 30' | 12' | 12' | 15' | 5' |
| Principal Arterial | 6' | 12' | 30' | 30' | 30' | 30' | 18' | 18' | 15' | 5' |

## I. Sign Features and Lighting

1. Electronic Display Boards

   a) Electronic Display Boards are allowed in conjunction only with the following sign types, and must not exceed 75 percent of the sign face:

      i) Menu Board Sign

      ii) Monument Sign

      iii) Pole Sign

      iv) Wall Sign

   b) No scrolling, flashing, rotating, or animated displays are allowed.

   c) Displays shall remain static for at least 30-second periods. Transitions must occur within a one-second period.

   d) The display shall be configured to turn off or return to a static, default design if a malfunction occurs.

2. Changeable Copy Signs

   Changeable Copy Signs are allowed in conjunction only with the following sign types, and must not exceed 75 percent of the sign face:

   a) Awning or Canopy Sign

   b) Menu Board Sign

   c) Monument Sign

   d) Pole Sign

   e) Projecting Sign

   f) Wall Sign










**Figure 38-10-7. Examples of Electronic Display Boards**







**Figure 38-10-8. Examples of Changeable Copy Signs**

3. Sign Lighting

   a) Maximum Brightness

      i) Maximum brightness levels for internally illuminated signs shall not exceed 5,000 nits when measured from the sign's face at its maximum brightness, during daylight hours and 250 nits when measured from the sign's face at its maximum brightness at night.

      ii) Each internally illuminated sign must have a light sensing device that will automatically adjust the brightness of the display as the natural ambient light conditions change to comply with the limits set here within.

      iii) The luminance on the face of an externally illuminated sign shall not exceed 150 nits. Photometric evidence of the installed luminaires showing compliance with this section shall be provided to the city within ten business days of installation.

      iv) A sign's nighttime lighting shall count toward the maximum allowable lighting for the property (See **Sec. 38-9.G.1**).

   b) Shading and Shielding

      i) Internally illuminated signs must be constructed so that the top of the sign is constructed of metal or of suitable material that does not allow light penetration vertically, so as to ensure that light is not emitted directly towards the sky.

      ii) Externally illuminated signs shall have luminaires mounted at the top of the sign and aimed downward. The luminaires shall be designed, fitted and aimed to shield the lamp and its reflective surfaces from off-site view and to place the light output onto and not beyond the sign.

   c) Signs In and Near a NH-1 District or Rural Character Area

      i) Signs in a NH-1 District or Rural Character Area shall not be illuminated.

      ii) Signs that face a NH-1 District or Rural Character Area having a linear distance of 75 feet or less from that zone shall not be illuminated.

## J. Common Signage Plan

1. Applicability

   A Common Signage Plan applies to two development scenarios:

   a) A multi-tenant center or one lot with multiple buildings, excluding accessory structures (required), and

   b) Multiple adjacent lots (optional).

2. Bonus Area

   Developments utilizing the Common Signage Plan shall receive a 15 percent increase in the maximum size area indicated in **Figure 38-10-5. Permitted Sign Locations and Standards** for freestanding signs.

3. Submittal Requirements

   A Common Signage Plan shall include the following information:

   a) The location of all buildings, parking areas, driveways, landscaped areas, and any other information as required by the City;

   b) Calculation of the maximum total sign area, the maximum height of signs, and the number of signs by type on each lot;

   c) An accurate indication on the plan of the proposed location of each present and future sign of any type; and

d) An accurate depiction of the sign structure and materials, specifying standards for consistency among all signs on the lot(s) affected by the plan with regard to color scheme, lettering or graphic style, lighting, location of each sign on the buildings, materials, and sign proportions.

4. Review and Approval Procedure

a) The Common Signage Plan shall be submitted in conjunction with any site plan or other development plan required by the City.

b) The Community Development Director shall be responsible for the review and approval of a Common Signage Plan.

c) After approval of a Common Signage Plan, no sign shall be erected, placed, painted, or maintained, except in compliance with such plan, and such plan may be enforced in the same way as any provision of the subsection.

## K. Maintenance, Abandonment, and Removal

1. Maintenance and Safety

a) All signs shall be kept in good repair, both structurally and in appearance. All braces, bolts, clips, fastenings and the supporting frame shall be securely affixed to the support structure or wall and shall be free from insect infestation, rot, or other deterioration.

b) If the Code Enforcement Officer determines that any sign becomes unsecured, unsafe or subject to fall, the Code Enforcement Officer shall give written notice of the sign's condition in accordance with **3. Repair or Removal of Noncompliant Signs**.

2. Abandoned Signs

a) All signs shall be fully removed when the business/operation on site is no longer conducted.

i) For signs with a changeable face (e.g., multi-tenant signs), a new blank face shall be inserted. Alternatively, the entire sign face may be painted and the original message must not show through the paint.

ii) For signs where a message is placed on a structure or object (e.g., an awning), only the message is required to be removed. The message must not be visible following removal.

3. Repair or Removal of Noncompliant Signs

a) Any written notice to repair or remove a sign in violation of this code will be sent via certified mail by the Code Enforcement Officer to the land owner and to the sign owner lessee, or person(s) responsible for the sign.

b) If such order is not acted on within seven days, the Code Enforcement Officer may initiate proceedings to remove the sign at the expense of the land owner, sign owner, lessee, or person(s) responsible for the sign.

c) Additional time may be granted by the Code Enforcement Officer if compliance is proceeding.

d) Only one written notice per violation will be issued. The notice shall remain in effect for the duration of the business's present ownership.

e) Upon final determination that the sign is unlawful (following any appeals as outlined in **Sec. 34-3.F. Appeals**), the City reserves the right to remove and dispose of the sign at the sign owner's expense.

f) No notice is required for the removal and disposal of signs illegally placed in the right-of-way or clear sight triangle (see **Sec. 38-2.H. Clear Sight Triangle**).

## L. Nonconforming Signs

1. Nonconforming signs that were lawful at the time of their construction may be continued.

2. No person may increase the extent of nonconformity of a nonconforming sign. No nonconforming sign may be enlarged or altered in such a manner as to aggravate the nonconforming condition, nor may illumination be added to any nonconforming sign.
3. When any sign is substantially damaged (i.e., the cost of restoring the sign is at least 50 percent of the market value of the sign before it was damaged), destroyed, taken down or removed for any purpose other than copy change or normal maintenance operation, it shall not be re-erected, reconstructed, or rebuilt except in full compliance with this section.
4. Any change in the use of any building or property on which a nonconforming sign is located will require that all nonconforming signs on that property be brought into compliance with all applicable sections of this section.
    a) Exception: The message of a nonconforming sign may be changed so long as this does not create any new nonconforming issues.
5. A nonconforming sign shall not be moved or replaced except to bring the sign into conformity with this section.
    a) For the purpose of this subsection, the term "replaced" means the replacing of any or all parts of a sign that would extend the normal life span of the sign. An example is replacing wood pole supports with metal I-beam supports.
6. Any nonconforming sign shall be considered abandoned if the sign is blank for 90 days, and the land and sign owner(s) are responsible for its removal. For the purposes of this subsection, a sign is blank if:
    a) It advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted;
    b) The advertising message it displays becomes illegible in whole or substantial part; or
    c) The advertising copy has been removed.

## Sec. 38-11.Wireless Communication Facilities

### A. Purpose

The purpose of this section is to establish supplementary regulations governing wireless communication facilities, including towers, co-located facilities, and antennas. These regulations promote the following goals:

1. Encourage the location of facilities to preserve the character of Las Cruces' neighborhoods and support viewshed protection;
2. Protect residential uses and land uses from potential adverse impacts of wireless communication facilities;
3. Prioritize co-location of wireless communication facilities over additional single-use towers;
4. Minimize the number of new towers;
5. Encourage the use of minimally visually intrusive technology to the maximum extent technically feasible;
6. Promote regulatory certainty; and
7. Allow telecommunications providers to provide services to the community quickly, effectively, and efficiently.

### B. Applicability

1. This section applies to all towers and antennas located within the City's jurisdiction, except as expressly exempted below.
2. Exemptions
   a) Amateur (Ham) radio antennas, limited to the number and height necessary to engage in amateur communications;
   b) Microwave reflectors and parabolic antennas;
   c) Antennas and equipment located completely inside of buildings; and
   d) Minor modifications of existing wireless communications facilities and attached wireless communications facilities, whether emergency or routine, provided there is little or no change in the visual appearance.
      i) Minor modifications include the addition of antennas to conforming wireless towers and attached wireless communications facilities that comply with all applicable regulations of this section.
      ii) A building permit is required to authorize minor modifications as stated in **i)** above.

### C. General Requirements

1. Federal Law

   The wireless communication facility regulations of this section must be applied within the constraints of the Telecommunications Act of 1996 and Section 6409 of the Middle-Class Tax Relief and Job Creation Act of 2012.
2. All structures shall be sited, designed, constructed, operated, inspected, maintained, repaired, modified, removed and replaced in compliance with the City's adopted Uniform Building Code, as amended.
3. Communication facilities may be considered a principal or accessory use. Another principal or accessory use on the same lot does not preclude installation of a tower on that lot.
4. Required Approvals

   Except in the LI, Light Industrial District (Rural, Suburban, Urban) and HI, Heavy Industrial District (Rural, Suburban, Urban), communication towers must be of a monopole design unless a Special Use Permit is approved (see **Sec. 36-5.C. Special Use Permits (Error! Reference source not found.**s)) allowing an alternative design that is

determined to better blend into the surrounding environment or that the required antennas cannot be supported by a monopole.

a) Applicable permits are required to authorize alteration of existing, or co-location of new communication facilities on existing structures that comply with the requirements of this Code.

5. Communication structures, towers, and antennas shall comply with the following requirements:

   a) Business Registration

      Business registrations are required for each communication structure for commercial purposes.

   b) Setbacks and Separation

      i) Communication structures shall be placed within the primary buildable area for the parcel's specific zoning district and must be to the side and/or rear of all residential dwellings (e.g., house, apartment, duplex, triplex, quadplex, townhouse, etc.).

      ii) Freestanding facilities are prohibited in the following locations:

         a. Within 50 feet of an existing right-of-way.

         b. Within any setback established by the applicable zoning district.

      iii) Communication structures must be set back a distance equal to at least 110 percent of the height of the structure from any adjacent lot containing or zoned to permit residential uses.

      iv) This use is prohibited within 1,000 feet in any direction of any other freestanding wireless communication facility or structure, as measured from the wall or fence of each facility. This requirement does not apply to small wireless facilities within the public right-of-way.

      v) Towers shall be set back one foot for each one foot in height plus 10 percent of the total height from any residential use or structure on any adjacent or the same parcel.

      vi) Any increase in height or reduction of minimum spacing or setback requirements shall require approval of a Zoning Variance.

   c) Lighting

      Towers may not be illuminated by artificial means and may not display strobe lights unless such lighting is expressly required by the Federal Aviation Administration or other federal or state authorities. When incorporated into the approved design of the tower, light fixtures used to illuminate ballfields, parking lots, or similar areas may be attached to the tower.

   d) Signage

      The use of any portion of a tower for advertising or signs other than warning or equipment information signs is expressly prohibited.

   e) Maximum Height

      i) Single-carrier wireless communication facilities: 65 feet, or the maximum height permitted in the applicable zoning district.

      ii) Co-locations on any existing unconcealed tower or existing structure: 75 feet, or the maximum height permitted within the applicable zoning district plus 10 feet.

   f) Viewshed Protection

      Only co-locations and stealth towers are permitted in the following locations:

      i) Within 660 feet of an easement or public right-of-way identified as part of an existing or future trail system as established by the City’s adopted Active Transportation Plan.

      ii) Within 660 feet of the centerline of a public street designated as a protected view corridor.

## D. Co-Location

1. All commercial use communication structures shall be co-located or integrated within an existing structure unless evidence is presented demonstrating that such co-location or integration cannot and should not occur. Evidence may include, but is not limited to, that no other structure suitable for co-location exists:
   a) Within a one-mile radius to meet the applicant's engineering requirements or structural strength or space availability needs for all improvements;
   b) In which unavoidable electromagnetic interference would occur between the new and any existing communication structures;
   c) In which other factors render the use of existing structures unsuitable;
   d) In which urban design features and aesthetic views would be hampered, beyond the objectives desired with the creation of this requirement, of existing natural and man-made structures; and
   e) Whose owners of existing structures would not allow the placement of the applicant's structure or such owners are requiring payments thereof that substantially exceed commercially reasonable rates.
2. Such evidence shall be presented to the Community Development Department for review and approval by the Community Development Director. Such proof may be required as part of the Special Use Permit and/or building permit approval processes, and only then shall an independent, freestanding communication structure be allowed in accordance with other requirements of this Code. Where co-location is proposed on a City-owned facility, such evidence shall also be presented to the Director responsible for City facilities.
3. Co-location of structures shall be in accordance with the following provisions:
   a) If the receiving structure was previously granted a Special Use Permit for its use and placement, including necessary variances for height and setbacks, the original special use permit does not need to be amended provided all requirements of the original Special Use Permit and this section have been met.
   b) Additional buildings and additions to existing equipment and accessory structures for towers must comply with applicable architectural and urban design criteria for the subject property.
   c) An unlimited number of communication antennas may be placed on an existing tower and/or other communication structure, provided all other requirements are met, including building codes and urban design criteria.
   d) If not governed specifically by this section, the building or structure receiving a co-located communication facility must comply with all applicable zoning and building code provisions, if applicable, or other city ordinances and/or state laws related to their placement, use, and construction.
   e) All co-located communication facilities must be an integrated architectural design feature and painted or textured such a color as to blend in with their visual background.
   f) When roof mounts are used, at a minimum, the first five feet of the communication structure shall be screened from view on all sides using building design elements, such as varied roof heights and/or parapets.
   g) Wall mounts cannot project more than three feet from the surface of the building and the projection cannot violate any of the normally required building setbacks and/or screening buffer yards. Structures that are attached parallel to a pitched roof surface cannot project more than three feet above the surface of such roof.
      i) Exception*:* This does not apply to roof top mounted structures that vertically ascend upward from a flat roof or structures placed at the apex of pitched roofs.
   h) All wall-mounted communication structures must maintain a minimum clearance of eight feet above the nearest adjacent ground and/or walking surface.

i) There shall be no limit on the number of wall and roof mount structures, in any zoning district, provided the structure is compatible with and integrated to the architecture of the receiving structure and can be demonstrated in plans to be submitted to the Community Development Director for review and approval.

## E. Stealth Towers

The use of stealth towers or design techniques is encouraged and intended to provide more options for the placement and use of communication structures while integrating or concealing the communication structure into an improvement.

1. Examples of communication structures integrated and/or concealed into public or private facilities using stealth towers include but are not limited to:
   a) Flagpoles,
   b) Spires, bell towers, and other architectural features added to buildings,
   c) Integrated communication structures on utility substations, buildings, and water tanks,
   d) Extensions of communication antennas to existing lighting poles at sports facilities, and
   e) Any other proposed communication structure that is integrated and/or concealed within a building or structure and is approved in accordance with the provisions of this section.

## F. Urban Design Criteria

1. General Provisions
   a) Building architecture, not including the tower, shall be consistent with surrounding structures in both style and construction material.
   b) Access to all communication structures and associated buildings on the property shall be shown on the Site Plans as part of special use or building permit approval processes.
   c) No chain link fencing around any communication structures is allowed along arterial or collector streets.
   d) All utility buildings and structures accessory to a tower must comply with all applicable requirements of the underlying zoning district. Exterior ground mounted equipment occupying more than 50 square feet, if visible from ground level, must be screened from view of abutting property used or zoned for residential purposes by a screening wall or fence in accordance with the screening standards for mechanical and utility equipment in **Sec. 38-8.E.3**.
   e) Equipment buildings associated with communication structures shall follow an architectural style, construction materials, and colors similar to existing buildings within the neighborhood; building facades for tower accessory structures and the first 20 feet of towers shall be painted earth-tones or similar colors to existing structures within the neighborhood and constructed of similar building materials.
   f) Antennas or other radiating/receiving devices are not required to have architectural treatments or other design features, such as painting and texturing, applied as required within this Code, if such treatments would interfere with the operation of the device. Such treatments are required of the supporting structure, including towers, and not the radiating/receiving device.
2. Towers and Other Communication Structures in Residential Districts

   In addition to **1. General Provisions** above, communication structures located within residential districts are also subject to the following:

   a) All private communication structures on residentially zoned property shall either be painted or treated the same color as the primary structure or the surface to which the structure is attached. This includes painting or screening roof-mounted communication structures.

i) Screening and/or painting of roof-mounted structures is required on all sides the residential property in which a communication structure is to be or is placed.

3. Towers and Other Communication Structures in Commercial and Industrial Zoning Districts.

a) Additional Setbacks for Antennas, Communication Structures, and Satellite Service Devices:

i) Structures shall be set back at least one foot for each one foot in height from any residential dwelling structure on any adjacent parcel.

ii) Equipment and accessory structures shall conform to building and accessory structure maximum heights and minimum setbacks for the parcel's specific zoning district.

b) Additional Setbacks and Placement Restrictions for Towers:

i) Structures shall be placed within the primary buildable area for the parcel's specific zoning district and must be to the rear of the primary building structure. If there is no primary building, then the tower must be within the primary buildable area.

ii) A Special Use Permit may be granted to permit tower height greater than what is allowed. The Special Use Permit process shall also be used for any deviations related to setbacks and/or screening buffer yards.

## G. Special Use Permit Review Criteria

1. The regulations within this subsection apply for all commercial communication structures that require the approval of a Special Use Permit.

2. Factors to be Considered

In addition to any other applicable requirements, the following factors must be considered in a decision to approve or deny a special use permit for a wireless communications tower:

a) Height of the proposed tower;

b) Proximity of the tower to residential structures, residential district boundaries, and existing towers;

c) Nature of uses on adjacent and nearby properties;

d) Surrounding topography;

e) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

f) The total number and size of antennas proposed and the ability of the proposed tower to accommodate co-location;

g) Architectural design of utility buildings and accessory structures to blend with the surrounding environment;

h) Proposed ingress and egress;

i) The need for a tower within the immediate geographic area to provide an acceptable level of communications service to the area;

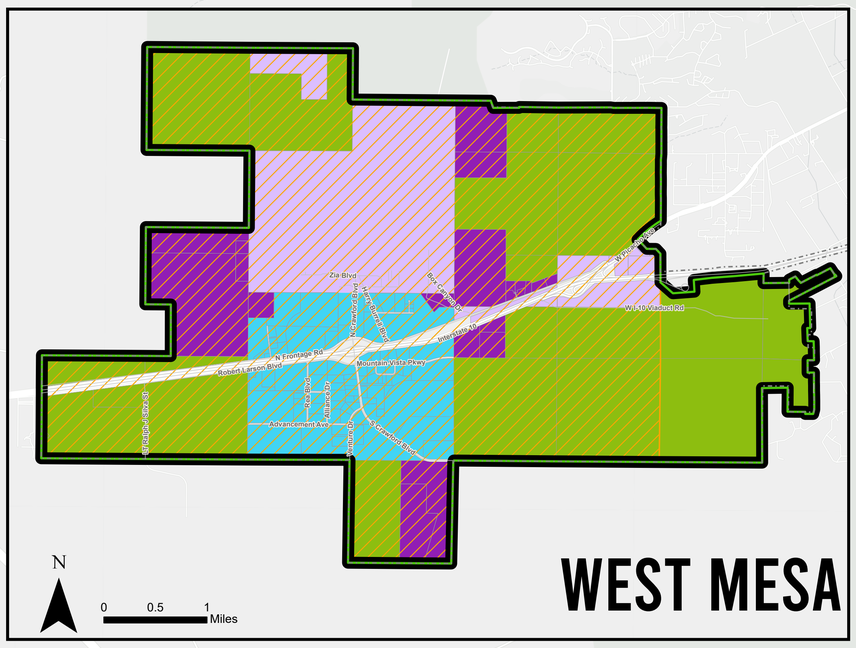
j) The size of the tract and the most likely future development as indicated by the Comprehensive Plan, planned infrastructure, topography and other physical considerations.

## H. Removal of Abandoned Antenna and Towers

Abandonment or cessation of use of the communication structure shall require the removal of all facilities associated with the communication structure from the subject property within six months after the abandonment or cessation of use. Foundations for such structures should be altered or removed to be visually appealing and safe.

EXHIBIT "B"

# CITY OF LAS CRUCES
# REALIZE ZONING MAP




## Zoning Districts
- Neighborhood 1 (NH-1)
- Neighborhood 2 (NH-2)
- Neighborhood 3 (NH-3)
- Commercial/Retail (CR)
- Light Industrial (LI)
- Heavy Industrial (HI)
- Open Space-1 (OS-1)
- Open Space 2 (OS-2)
- Planned Unit Development (PUD)
- Holding (H)

## Legacy Zoning Districts
- Downtown Development Code (DDC)
- University District Overlay (UDO)
- Las Cruces Innovation and Industrial Park (LCIIP)
- South Mesquite Overlay (SMO)
- Alameda Depot Overlay (ADO-1 to 6)

## Characters
- Urban Character (U)
- Rural Character (R)
- No Character Defined

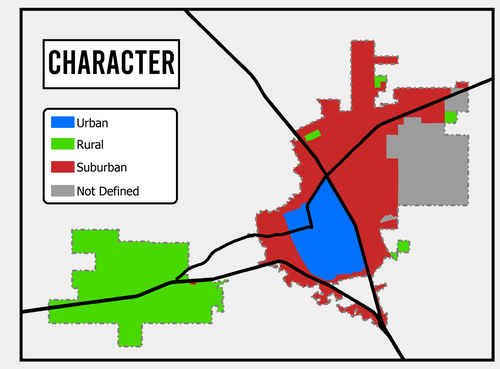
* Everything else is Suburban Character (S)

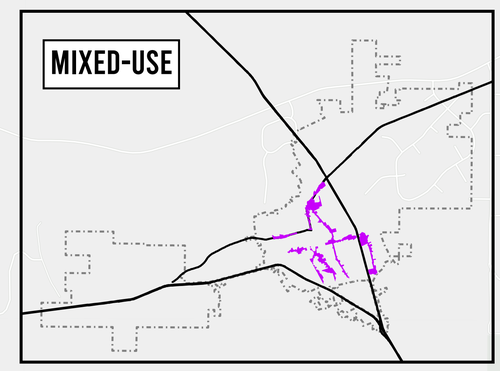
## Overlays
- Mixed-Use (MX)
- Town Center (TC)
- Neighborhood Center (NC) * None currently added *
- Airport Overlay District

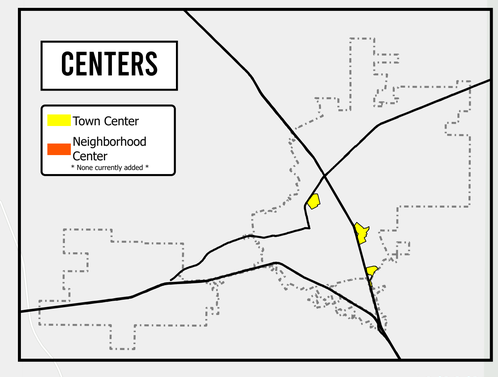
Zoning District Colors are consistent with official colors. The Characters and Overlays may be different in order to improve visual clarity within map.

A Town Center is planned for this general area. Boundaries are waiting to be established as development continues.

* All Parcels have a Zoning District and Character.
* Overlays are additional zoning traits a parcel may have applied.
* Some parcels have more than one zoning district within it. Zoning districts within a parcel share that parcel's character an any applied overlays.
* Refer to the online map for further information.
https://storymaps.arcgis.com/stories/3e66bc92724e4fa3962e680742e09067







10/28/25
City of Las Cruces GIS
Community Development Department
GIS@lascruces.gov

# Chapter 34. Development Code General Provisions

## Sec. 34-1. Establishment

### A. Title

This Development Code of the City of Las Cruces, New Mexico, shall be known as, and may be cited as, the "Development Code," "Code," or "these regulations."

### B. Purpose

The purpose of this Development Code is to unify the City's land development regulations into a single document and to reduce repetition and conflict among various ordinances. Additionally, this Code is intended to implement the Comprehensive Plan, Active Transportation Plan, neighborhood blueprints, and all other City-adopted plans and policies.

### C. Authority and Jurisdiction

1. This Code is created and adopted in accordance with NMSA 3-17, 3-19, 3-20, 3-21, and 3-21A, as amended, and shall be applicable to all property within the corporate limits of the City, except for state and federal land.
2. State property, Doña Ana County property, the Las Cruces Public School District School Board property, New Mexico State University (Board of Regents), federal property, and property owned or controlled by any other governmental entity being utilized for public purposes shall be exempt from these regulations only when specific exemption is provided elsewhere by state or federal statute or court order. Such exemption shall not apply to local, state, or federal property that is not being used for public purposes. Governmental and private entities shall comply with the requirements of Section 3-19-11 NMSA.
3. This Code identifies certain administrative roles (e.g., Community Development Director) as approval authorities. The definition of each role indicates whether a designee of that person may be delegated authority. See **Sec. 34-5. Definitions**.

### D. Effective Date

The Effective Date of this Development Code shall be February 18, 2025.

### E. Transitional Provisions

The provisions of this section address development projects that were initiated prior to the Effective Date of this Development Code specified in **Sec. 34-1.D** above.

1. Generally
   a) For 8 months after the Effective Date, property owners/applicants shall have the option to follow codes as of the day before said effective date. This option shall be granted upon submittal of written notice, on a form approved by the Community Development Director, accompanying the submittal of an application authorized under this ordinance. If said submittal is not approved within 1 year of the effective date, the submittal shall be considered void and thereafter, any subsequent submittal shall follow the current code. No extensions will be approved after the 1-year approval deadline.
   b) Construction permits granted under the regulations in place before the Effective Date shall remain valid until their expiration. Projects with valid permits may be carried out in accordance with the regulations in effect at the time of their approval.
   c) The adoption of this Development Code shall not require any change in plans, construction, or designated use for which a permit or other official approval was granted before the Effective Date.

d) Vesting under previous regulations applies only within the zoning or subdivision processes. Subdivision vesting does not vest zoning-related applications; zoning vesting does not vest subdivision-related applications.

i) Example: Subdivision Process

An approved Master Development Plan (subdivision-related process) vests future subdivision submittals, as long as the approved Master Development Plan or Preliminary Plat does not expire.

ii) Example: Zoning Process

An approved PUD Concept Plan (zoning-related process) vests future zoning submittals, as long as the approved Concept Plan does not expire.

e) If an application expires or resubmittal is required for any other reason, the development must meet the standards in effect at the time of re-application.

f) An applicant who submitted a complete application that was ultimately approved may opt to use the more recent regulations for the remainder of the development project; however, that project is no longer eligible to use the older regulations at a later stage.

2. Completed Subdivision Applications

a) Complete applications for subdivision-related approvals (e.g., Master Development Plan, Preliminary Plat, Construction Plan, Final Plat) pending approval on the Effective Date will be reviewed wholly under the terms of the development regulations in effect immediately preceding the Effective Date.

i) Example: Master Development Plan for a Phased Development

If a complete Master Development Plan (MDP) application for a phased development project was submitted prior to the Effective Date and was ultimately approved, the entire development project may develop under the approved MDP and regulations in place at the time of the MDP submittal.

3. Completed Zoning Applications

a) Complete applications for zoning-related approvals (e.g., Planned Unit Developments, Site Plans, Special Use Permits, Zoning Variances, Building Permits) pending approval on the Effective Date may be reviewed wholly under the terms of the development regulations in effect immediately preceding the Effective Date.

i) Example: Concept Plan, Site Plan, and Building Permits for a Planned Unit Development

If a complete Concept Plan application for a Planned Unit Development (PUD) is submitted prior to the Effective Date and is ultimately approved, the City may approve a Site Plan and Building Permit that conform to the Concept Plan and comply with the regulations in place at the time of the Concept Plan submittal.

b) If a Building Permit was issued before the Effective Date (or a complete Building Permit application was submitted before the Effective Date and ultimately approved), the structure may be completed in conformance with the issued Building Permit and other applicable permits and conditions, even if such structure does not comply with provisions of this Code.

c) If the structure is not completed within the time allowed under the original Building Permit and any authorized permit extension, the structure may be constructed, completed, and occupied only if it complies with the regulations of this Code.

4. Transitions in Permitted Use Status

a) If a use is allowed by **Sec. 36-3.A. Permitted Uses**, it is considered a lawfully established and conforming use under this Code.

b) If a use existed as an allowed by-right use or an approved SUP on the Effective Date and it now requires an SUP in accordance with **Sec. 36-3.A. Permitted Uses**, it is considered to be a lawfully established and conforming SUP under this Code.

c) A lawfully established existing use that is not allowed by-right or by SUP in the district in which the use is located is considered a legally nonconforming use and is subject to all applicable regulations of **Sec. 36-5.G. Nonconformities**.

5. Violations

A violation of former regulations continues to be a violation under this Development Code and is subject to penalties and enforcement under **Sec. 34-1.H. Violations and Enforcement**, unless the use, development, construction, or other activity now complies with the provisions of this Development Code.

## F. Technical Manual and Other Technical Resources

This Development Code references a Technical Manual, which is maintained separately from this Code by the Development Review Committee. The standards contained within the Technical Manual apply to all development within the City's jurisdiction. This code also references several other technical resources that apply within the City, including (but not limited to) the latest editions of thoroughfare design manuals prepared by AASHTO, NACTO, ITE, FHWA, and related entities. These are the minimum standards required. Development shall follow these minimum standards and any City guidelines adopted by resolution, as amended.

## G. Fees

All fees shall be paid in accordance with the City's Fee Schedule, as adopted by the City Council. An application may be denied for failure to pay such fees.

## H. Violations and Enforcement

1. Duty to Enforce. The official(s) designated by the City Manager shall enforce this Development Code.
2. The City has the right to execute the following actions to remedy violations of this Development Code or noncompliance with approved plans in accordance with NMSA 3-17-1:
   a) Withhold or revoke permits or issue a stop-work order for any land, structure, or improvement;
   b) Seek injunctive relief to stop a violation;
   c) Seek a court order to remove a violation; or
   d) Other penalties and remedies as provided by law.
3. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violations may each be found guilty of a separate offense and be subject to penalties, remedies and enforcement actions.

## I. Interpretations

The Community Development Director is the responsible official for determining interpretations and meanings. The Director's determination may be appealed in accordance with **Sec. 34-3.F.2 Appeal of a Director Decision**.

## J. Conflicting Provisions

1. Conflict with State or Federal Regulations

Any provisions of U.S. or New Mexico State Law that impose a greater duty, standard, or requirement than those contained herein shall supersede the provisions of this Code.

2. Conflict within the Development Code or Other City Regulations
   a) Where the provisions of any local ordinance or regulation impose greater restrictions than those of this Development Code, generally, the provisions of such document shall prevail.

b) When two or more provisions of this Development Code are in conflict, generally, the most restrictive provision shall apply.

c) In either case, the Community Development Director shall have the authority, on a case-by-case basis, to determine which conflicting provisions of this Code and/or other local requirements shall be imposed.

3. Conflict with Private Agreements

This Development Code does not interfere with, abrogate, or annul any easement, deed restriction, covenant, or other agreement between private parties. The City's regulations supersede any private agreements, and the City will not recognize or enforce any private agreements.

## K. Severability

If any chapter, section, paragraph, sentence, phrase, or part of this Code is declared unconstitutional or otherwise invalid, the remaining portions shall not be affected.

## Sec. 34-2. Approval and Appeal Entities

### A. City Council

1. Establishment

   The City Council is established by Part I Charter, Article II of the Las Cruces Municipal Code.

2. Authority

   **Figure 34-2-1** summarizes the City Council's major roles and responsibilities within this Development Code.

### B. Planning & Zoning Commission

1. Establishment

   In accordance with NMSA 3-19-1, a Planning & Zoning Commission has been created by the City Council as stated in Chapter 2, Article IV, Division 2, Subdivision VI. Planning & Zoning Commission of the Las Cruces Municipal Code.

2. Authority

   **Figure 34-2-1** summarizes the Planning & Zoning Commission's major roles and responsibilities within this Development Code.

## C. Development Review Committee

1. Generally

   The Development Review Committee (DRC) is a formal group of representatives employed by the City or its representatives empowered to act on behalf of their respective departments on development-related applications.

2. Composition

   a) Required Members

      i) Membership of the DRC shall consist of one representative from each of the following departments (or their successor department(s)):

         a. Public Works Department;

         b. Community Development Department;

         c. Utilities Department;

         d. Fire Department;

         e. Parks & Recreation Department; and

         f. Up to two additional City Staff appointees as designated by the City Manager, with technical and management experience in urban design, advance and long-range planning, and sustainability related to public works, subdivision, major construction, and facility projects.

      ii) Department representatives shall be the Director or the Assistant Director (or equivalent title).

3. Authority

   **Figure 34-2-1** summarizes the DRC's major roles and responsibilities within this Development Code.

4. Meetings

   a) The DRC shall meet as needed to review development-related issues and applications, as summarized in **Figure 34-2-1**. The notice of DRC meetings shall appear in the public meeting schedule.

   b) The Community Development Director shall set the agenda for DRC meetings and abide by all notification requirements pursuant to approved policy and the New Mexico Open Meetings Act (OMA).

   c) Minutes will be taken during DRC meetings pursuant to approved policy and the New Mexico Open Meetings Act (OMA).

   d) When the DRC provides a recommendation to another entity, the Community Development Director shall provide the meeting minutes or compile the comments and provide a summary report for the approval authority(ies).

## D. Summary of Approval Authorities

**Figure 34-2-1. Summary of Major Roles and Responsibilities** provides an overview of the primary approval responsibilities outlined in this Development Code.

**Figure 34-2-1. Summary of Major Roles and Responsibilities**

Note: Decisions within this table may be appealed in accordance with **Sec. 34-3.F. Appeals**.

| Section | Application/Plan Type | City Council | Planning & Zoning Commission | Development Review Committee | Community Development Director | Public Works Director | Other |
|---|---|---|---|---|---|---|---|
| General | | | | | | | |
| **Sec. 34-3.E** | Flexible Development Standards | | | | Decide | | |
| **Sec. 34-1.F** | Technical Manual | | | Update | | | |
| **Sec. 34-3.F.2.a)** | Appeal of a Director Decision: Planning-Related | | Decide | | | | |
| **Sec. 34-3.F.2.b)** | Appeal of a Director Decision: Engineering-Related | | | | | | Appeals heard by Arbitration Committee |
| **Sec. 34-3.F.3** | Appeal of a DRC Decision | | Decide | | | | |
| **Sec. 34-3.F.4** | Appeal of a Planning & Zoning Commission Decision | Decide | | | | | |
| **Sec. 34-3.F.5** | Appeal of a City Council Decision | | | | | | Appeals heard by District Court |
| **Sec. 35-1.F.1** | Appeal of a Community Development Director Historic Preservation Decision | | | | | | Appeals heard by Historic Preservation Committee |
| **Sec. 35-1.F** | Appeal of a Historic Preservation Committee Decision | | Decide | | | | |
| **Sec. 34-3.I** | Development Code Amendments | Decide* | Recommend* | ~~Recommend~~ | | | |
| **Sec. 34-4.D** | Annexation | Decide* | Recommend* | Recommend | | | |
| Historic Preservation-Related | | | | | | | |
| **Sec. 35-2.D** | Cultural Property Designation | Decide | | | | | Historic Preservation Committee recommendation* |
| **Sec. 35-2.E** | Historic District Designation | Decide* | Recommend* | | | | Historic Preservation Committee recommendation* |
| **Sec. 35-3.A.2** | Certificate of Appropriateness | | | | Decide (minor) | | Historic Preservation Committee decision* (major) |
| **Sec. 35-3.C** | Demolition of Cultural Properties | Appeals | | | | | Historic Preservation Committee decision* |
| **Sec. 35-3.D** | Certificate of Economic Hardship | | | | | | Historic Preservation Committee decision* |
| Zoning Regulations-Related | | | | | | | |
| **Sec. 36-5.A** | Zoning Map Amendments | Decide* | Recommend* | | Recommend | | |

| Section | Application/Plan Type | City Council | Planning & Zoning Commission | Development Review Committee | Community Development Director | Public Works Director | Other |
|---|---|---|---|---|---|---|---|
| **Sec. 36-5.B** | Site Plans (except with SUP) | | | | Decide | | |
| **Sec. 36-5.C** | Special Use Permit (SUP) | | Decide* | | Recommend | | |
| **Sec. 36-5.D** | Planned Unit Development (PUD) Concept Plan | Decide* | Recommend* | Recommend | | | |
| **Sec. 36-5.D** | Planned Unit Development (PUD) Site Plan | | | | Decide | | |
| **Sec. 36-5.E** | Building Permits and Certificates of Occupancy | | | | | | Building Official |
| **Sec. 36-5.F** | Zoning Variance | | Decide* | | Recommend | | |
| Subdivision Regulations-Related | | | | | | | |
| **Sec. 37-3.A.4** | Master Development Plan | | Decide* | Recommend | | | |
| **Sec. 37-3.B** | Preliminary Plat | | Decide*~~*~~ | Recommend | | | |
| **Sec. 37-2.A** | Final Plat using the Alternate Summary Procedure (ASP) | | | | Decide | | |
| **Sec. 37-3.D** | Final Plat following an approved Preliminary Plat (i.e., Major Platting Process) | | | | Decide | | |
| **Sec. 37-3.D** | Final Plat without an approved Preliminary Plat (i.e., Minor Platting Process) | | Decide~~**~~ | Recommend | | | |
| **Sec. 37-2.E.5** | Right-of-Way Vacation | Decide~~* (dual)*~~ | ~~Decide (dual)*~~ | | Recommend | | |
| **Sec. 37-3.C.4** | Construction Plans | | | | Decide | | Affected departments and agencies to provide comments |
| **Sec. 37-4.C** | Acceptance of Public Improvements | | | | Decide | | Public Works, Utilities, and Parks & Recreation Directors must confirm completion |
| **Sec. 37-4.D.2** | Authorization of Substantial Completion | | | | Decide | | Affected departments and agencies must confirm agreement |
| Development Standards-Related | | | | | | | |
| **Sec. 38-2.C.1.a)** | Roadway Cross-Section Configuration | | | Decide | | | |
| **Sec. 38-2C.1.a)** | Roadway Dedication and/or Improvement Waiver | | | Decide | | | Appeal to City Council |
| **Sec. 38-2.D.4.b)** | Private Street Acceptance | Decide | Recommend | Recommend | | | City Attorney approval required |
| **Sec. 38-2.F.10.d)** | Driveway/Median Opening Permits | | | | | Decide | |
| **Sec. 38-2.G** | Traffic Impact Analysis | | | | | Decide | |
| **Sec. 38-2.I.6.c)** | Streetlights | | | | | Decide | |
| **Sec. 38-3.D.2.b)ix)** | Development Permits in Floodplain | | | | | | Floodplain Administrator decision |
| **Sec. 38-3.C.1.a)** | Master Drainage Study | | | | | Decide | |
| **Sec. 38-3.C.1.b)** | Final Drainage Study | | | | | Decide | |
| **Sec. 38-3.H.6** | Operation & Maintenance Plan | | | | | Decide | |
| **Sec. 38-5.D** | Park and Trail Dedication | | Decide | Recommend | | | |

| Section | Application/Plan Type | City Council | Planning & Zoning Commission | Development Review Committee | Community Development Director | Public Works Director | Other |
|---|---|---|---|---|---|---|---|
| **Sec. 38-6.E** and **Sec. 38-7.F** | Tree Mitigation Plan and Landscape Plan | | | | Decide | | |
| **Sec. 38-6.D.1** | Removal of Protected Trees | | | | Decide | | |
| **Sec. 38-9.K** | Outdoor Lighting Plan | | | | Decide | | |
| **Sec. 38-10.C** | Sign Permit | | | | Decide | | |
| **Sec. 38-10.J** | Common Signage Plan | | | | Decide | | |
| **Sec. 38-11.D** | Wireless Communication Facility | | | | Decide | | |

*Indicates a public meeting is required.

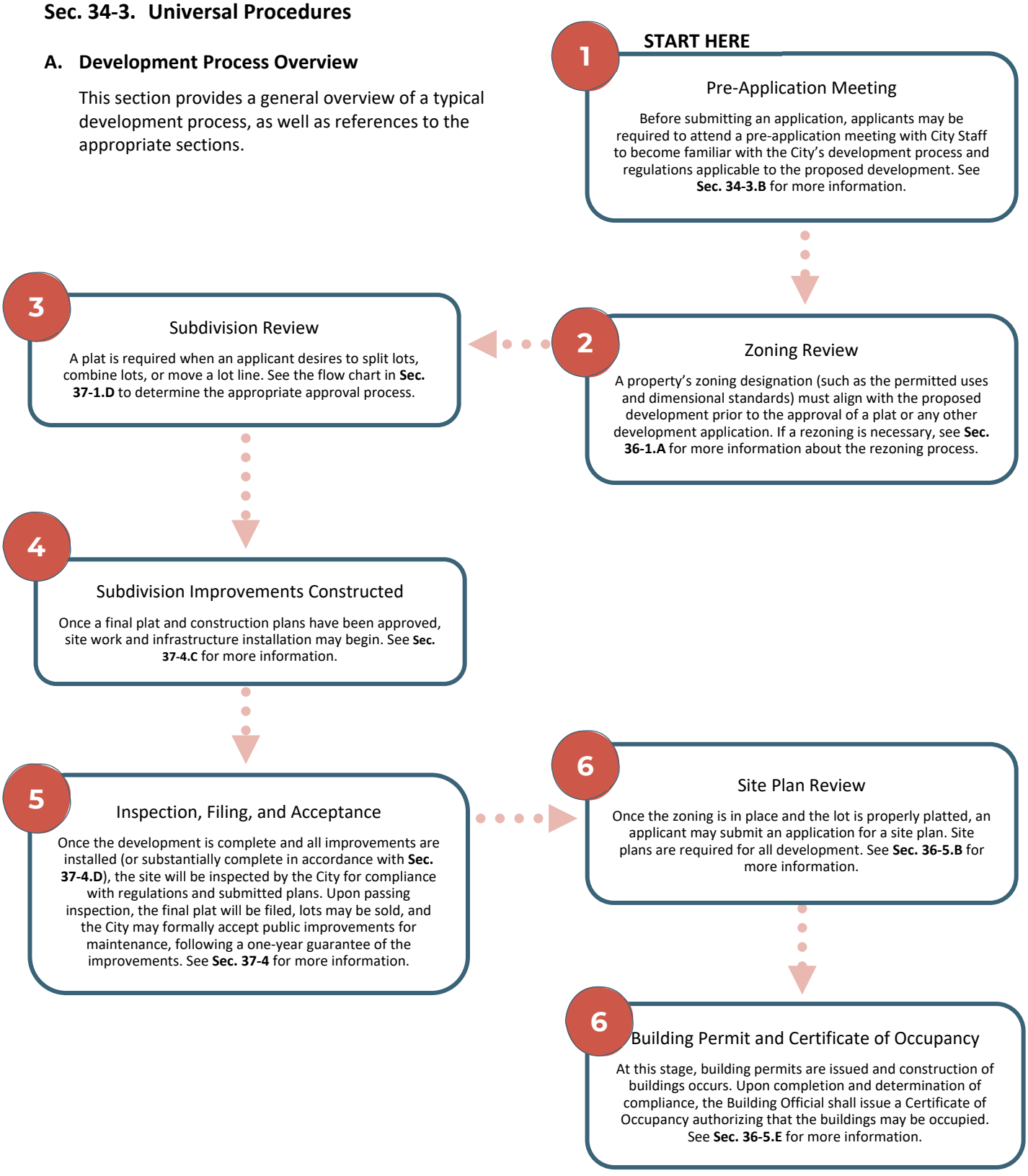
**Indicates a public meeting is required unless waived by the applicant in accordance with NMSA 3-20-7.

Note: All DRC meetings are advertised meetings open to the public to attend, during which the public is allowed to provide comments when recognized by the DRC Chairperson.

## Sec. 34-3. Universal Procedures

### A. Development Process Overview

This section provides a general overview of a typical development process, as well as references to the appropriate sections.



## B. Pre-Application Meeting

1. Purpose

   a) The pre-application meeting is intended to allow for the exchange of non-binding information between the applicant and City Staff to ensure that the applicant is informed of pertinent City development regulations and processes.

   b) The pre-application meeting provides an opportunity for the applicant and City Staff to discuss major development considerations such as utilities, roadways/traffic, drainage concerns, Comprehensive Plan conformance, specific neighborhood characteristics, and historical information.

   c) This exchange of information is intended to promote an efficient and orderly review process.

2. Meeting

   a) Prior to the submittal of any required plan or application, the applicant must consult with Community Development Department staff to determine whether a pre-application meeting is required for the type of application or plan being proposed. The Community Development Department staff will determine the appropriate City staff to attend the meeting.

      i) Pre-application meetings are always required for a PUD or SUP application.

   b) When a pre-application meeting is not required, the applicant may choose to participate in a voluntary pre-application meeting.

   c) If multiple applications are submitted requiring meetings with the same department, the respective department representative may allow one consolidated meeting.

   d) The applicant may be represented by their land planner, surveyor, engineer, or other designated agent.

3. Sketch Plan

   Although not required (except for a PUD or SUP), the property owner is encouraged to submit a Sketch Plan of the development for the pre-application meeting so that the Community Development staff can offer guidance and feedback before the submittal of a formal application to the City. Information and questions regarding utilities, roadways, drainage, and other development standards required by this Code should be considered to improve the effectiveness of this meeting.

## C. Application Processing

1. Initiation of Application

   a) Initiation by Owner or Owner's Agent

      i) Unless provided by this Development Code, any petition or application may be initiated only by the property owner, owner of an interest in the land, or by the owner's designated agent.

      ii) If the applicant is a designated agent, the application shall include a written statement from the property owner authorizing the agent to file the application on the owner's behalf.

      iii) The decision-maker (as identified by **Figure 34-2-1. Summary of Major Roles and Responsibilities**) may require the submission of documents, such as an affidavit from the owner, to provide evidence of ownership or agency.

   b) Initiation by City Manager

      The City Manager can initiate any application authorized under this Development Code.

2. Application Requirements

   a) Universal Application Contents

i) The City is hereby authorized to prepare application forms that include information requirements, checklists, architectural or engineering drawing sizes, applicant contact information, and any other information necessary to show compliance with City codes.

ii) All application forms are available from the Community Development Department and/or on the City's website.

iii) Applications shall be signed by all property owners (including all parties having an equitable interest, trustees of an estate, or all persons having a specific power of attorney) for the subject property, as recorded in the County Clerk's Office.

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

b) Universal Application Fees

i) Every application shall be accompanied by the prescribed fees set forth in the adopted Fee Schedule.

ii) Unless waived by City Council or permitted by the Fee Schedule, the prescribed fee shall not be refundable unless it was submitted in error.

3. Modification, Addition, or Waiver of Required Submittal Materials

a) The Community Development Director may require additional or modified information or provisionally waive planning-related application requirements following the pre-application meeting.

b) The Public Works Director and the Utilities Director may require additional or modified information or provisionally waive engineering-related application requirements following the pre-application meeting.

c) Examples of possible additional requirements and/or information could include but are not limited to a neighborhood group and/or noticed area meeting, traffic impact analysis, environmental analysis, detailed drainage analysis, etc.

d) Any request for additional or waived submittal requirements shall be justified in writing by the requesting entity.

4. Complete Application

a) Every required application shall be subject to a Determination of Completeness by the Community Development Director. The application shall only be accepted for processing when it is accompanied by all documents required by and prepared in accordance with the requirements of this Development Code.

b) A Determination of Completeness of an application shall be conducted in accordance with the following procedures:

i) If the submitted application is incomplete, the applicant shall be sent notification in writing.

a. Such notice shall be served by depositing it in the U.S. Postal Service or by electronic mail transmission.

b. The notification shall specify the documents or other information needed to complete the application and shall state the date the application will expire (see **Sec. 34-3.C.6. Application Expiration**) if the documents or other information are not provided to the City.

ii) If the application is determined to be complete, the application shall be processed as prescribed by this Development Code.

c) A typographical error shall not constitute an incomplete application.

d) A Determination of Completeness shall not constitute a determination of compliance with the substantive requirements of this Development Code. It is not guaranteed that an accepted, complete application will be approved if it is determined that the application does not comply with this Development Code.

e) If the application is resubmitted after a notification of incompleteness within the time allotted in **Sec. 34-3.C.6. Application Expiration**, the application shall be processed upon receipt of the resubmittal. If the information or documents submitted are not sufficient to enable the decision-maker to apply the criteria for approval, the application may be denied on such grounds.

5. Submittal of Multiple Applications

   An applicant may submit multiple requests at once so that all requests are reviewed simultaneously (e.g., Master Development Plan and Zoning Variance applications); however, applicants should be aware that required revisions to one application may require the resubmittal of other applications.

6. Application Expiration

   An application shall automatically expire at the close of business on the 45th calendar day after the application's submittal if the applicant fails to provide documents or other information necessary to comply with the City's requirements. The applicant must restart the application process if all required materials have not been provided within 45 days.

7. Application Extension

   The Community Development Director may extend the expiration of an application only when unique circumstances are present and additional time is needed for an applicant to provide documents or information to complete an application. Any extension shall be documented in writing, and the extension shall not exceed 180 days.

8. Modification of Complete Applications

   a) Modifications Requested by the City

      If revisions are requested by the City, and the modification is received at least 10 business days prior to the scheduled decision on the application, then the application shall be decided in accordance with the original schedule.

   b) Modifications Not Requested by the City

      Unless otherwise specified, when an applicant chooses to revise a submitted application, a new application must be submitted and the process restarted.

9. Submittal of Previously Decided Applications

   After the final decision on an application, the same (or substantially similar as determined by the Community Development Director) application shall not be submitted again until six months after the decision-maker's action.

10. Administrative Review

    a) Applications shall be submitted to the Community Development Director unless otherwise stated, who will distribute the submittal to applicable City departments and agencies for review. Each department shall complete the review and provide written comments to the Community Development Director.

    b) Each required department shall prepare and submit one set of consolidated comments to the Community Development Director. The Community Development Director shall compile the comments and provide the comments to the applicant for revisions.

    c) Whenever comments received by the City departments are in conflict, the Community Development Director will determine the appropriate procedure to be followed, utilizing the Development Review Committee where appropriate, in order to resolve said conflict or disagreement.

    d) The application shall be resubmitted and reviewed until the provisions of the Code are met and the submittal is recommended or approved, as applicable.

    e) The Community Development Director may opt to defer any application to the Planning & Zoning Commission.

f) When the Community Development Director is responsible for providing a recommendation, the Community Development Director shall prepare a report including comments and the reason(s) for the recommendation.

## D. Notice of Decision

Upon a final decision by the Planning & Zoning Commission or City Council, the Community Development Department shall promptly:

1. Prepare a written decision that includes an order and a statement of the factual and legal basis for the order and file the written decision with the City Clerk. Also, this document shall state the requirements for filing an appeal.
2. Make the written decision publicly available, which may include posting the document on the City's website.

## E. Flexible Development Standards

1. Purpose

   a) The purpose of this section is to establish a three~~two~~-tier system to allow flexibility in certain planning-related development standards (e.g., setbacks) that are part of a building permit or business registration request. The City Council grants the Community Development Director administrative discretion to allow limited departures that are generally considered insignificant from certain planning-related development standards.

   b) This section does not apply to development standards associated with signs and lighting, which require Zoning Variance. See **Sec. 36-5.F. Zoning Variances** for requirements.

2. Application Procedures

   An applicant requesting a departure from a planning-related development standard shall file a complete application, including the development statement that includes the following:

   a) Official building permit or business registration application,

   b) Submittal fee,

   c) Notarized affidavit,

   d) Copy of property's survey and legal description,

   e) Copy of site plan, if applicable, (requirements to be detailed),

   f) Description and justification of requested departures from standards,

   g) Request and justification to waive submittal requirements, and

   h) An application that meets the following conditions:

      i) The application shall be signed by all property owners of record (including all trustees of an estate or all persons that have a specific "power of attorney" for the subject property as recorded in the County Clerk's office). Persons who have an equitable interest in the subject property, but no legal title, shall not be deemed the "owners of record" of said property for purposes of this Code.

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

      iii) The Community Development Director may reject any application if the ownership of the subject property is not clearly established.

3. Tier System

   a) Tier 1

      A request of up to a 25 percent departure from a planning-related development standard may be granted by the Community Development Director. Minimum lot area/width/depth departures may be granted as

necessary to prevent a taking of property as well as requests that are a result of governmental action (e.g., right-of-way acquisition).

b) Tier 2

A request for more than 25 percent and up to the following maximum departures from planning-related development standards may be granted by the Community Development Director. However, the Director is required to negotiate with the applicant to receive on behalf of the public one or more benefits (e.g., additional landscaping for reduced setbacks) deemed equivalent to the requested departure from standard.

Types of departure requests:

i) Setbacks/bufferyards/screens: 100 percent.

ii) Landscaping: 33 percent (from 15 percent to ten percent area coverage).

iii) Parking and all other requests not excluded in **Sec. 34-3.E.1.b)** above: 50 percent.

(See other parking flexibility options in **Sec. 38-2.N.4. Minimum Off-Street Vehicular Parking Requirements**.)

c) Tier 3

A request for deviations from planning-related development standards for properties located within the Metropolitan Redevelopment Area (MRA) in the Urban Zoning designations may be granted the following by the Community Development Director.

i) Setbacks/buffer yards/screens: 100 percent.

ii) Landscaping: 75 percent (from 15 percent required area coverage).

iii) Outdoor Lighting: Compliance with lighting may be extended up to one year if there are no safety concerns.

iv) Parking: Exempt in the Urban area.

~~iv)~~Building Permit Fees: Urban Core may request reimbursement for building permit fees for vacant and redeveloped properties.

4. Notice of Request

The Community Development Director shall decide the appropriate surrounding property owners to be contacted by regular mail before acting on a request. Written comments about the request shall be delivered to the community development department to be considered by the Community Development Director within 10 business days of the date the notice of the request was mailed.

5. Action on the Request

Within ten working days after mailing the notice of the request to surrounding property owners, the Community Development Director shall act on the request.

6. Notice of Decision

The surrounding property owners that were contacted about the request and the applicant will be notified in writing about the decision on the request. The Community Development Director, for any reason, may require an applicant to follow the procedures for a Zoning Variance outlined in **Sec. 36-5.F. Zoning Variances**.

7. Appeal

Any person aggrieved by a determination of the Community Development Director may appeal the decision in accordance with **Sec. 34-3.F. Appeals**.

## F. Appeals

1. Application Requirements

a) Who May Appeal

Any person, department, committee, commission, board, or bureau that is affected by a final decision of an administrative official, committee, or board in the administration or enforcement of this Development Code may appeal the decision.

b) Written Statement

All appellants shall submit to the Community Development Department a detailed written statement of the grounds of their appeal, including findings. The appeal shall state all issues to be considered. Only the issues stated shall be considered during the applicable proceeding.

c) Timing for Filing Appeal

An appeal shall be filed no later than 15 calendar days after the decision (or 30 calendar days for appeals to the District Court in accordance with NMSA 39-3-1), and after all other procedures established by this Code have been exhausted.

d) Fees

Fees shall be assessed to the appellant person or persons in order to cover the costs of such appeal. Such fees shall be as prescribed in the Fee Schedule as adopted and amended.

e) Stay of Proceedings

An appeal shall stay all proceedings in furtherance of the action appealed unless the officer, official, commission, committee, or board from whom the appeal is taken certifies that by reason of facts, a stay would cause imminent peril of life and property. Upon certification, the proceedings shall not be stayed except by order of District Court after notice to the official, commission, committee, or board from whom the appeal is taken.

2. Appeal of a Director Decision

a) Planning-Related Issues

i) Planning-related issues are issues related to, but not limited to, lot configuration or dimensions, street network, right-of-way requirements, land use, density, phasing of development, suitability of location, or other issues determined by the Community Development Director to be planning-related.

ii) Appeals shall be resolved by the Planning & Zoning Commission. The Planning & Zoning Commission, by a majority vote of a quorum of the Commission, may, after all other procedures established by this section have been exhausted, reverse or affirm any order, requirement, decision, or determination of a Director.

b) Engineering-Related Issues

i) Engineering- or utility-related opinions are related to, but not limited to, design specifications for roadways, grading, drainage, utilities, or other issues determined by the Community Development Director and/or the Public Works Director to be engineering-related.

ii) Appeals of engineering-related issues shall be resolved by arbitration. The Arbitration Committee shall consist of three engineers licensed to practice in the state who are not associated with the City but are familiar with its development standards. The City shall choose one engineer, the applicant shall choose the second engineer, and the two chosen engineers shall choose the third.

iii) The Arbitration Committee shall review the engineering- or utilities-related issue under question and any pertinent information within 30 calendar days of the appeal submittal. The appellant shall be responsible for all costs associated with the Arbitration Committee.

iv) Action from the Arbitration Committee shall be in the form of approval or disapproval. Action from the arbitration committee shall be final unless appealed to the state board of registration for professional engineers and surveyors or to a court of competent jurisdiction.

3. Appeal of a DRC Decision to the Planning & Zoning Commission

   The Planning & Zoning Commission, by a majority vote of a quorum of the Commission, may, after all other procedures established by this section have been exhausted, reverse or affirm any order, requirement, decision, or determination of the Development Review Committee.

4. Appeal of a Planning & Zoning Commission Decision to the City Council

   The City Council, by a majority vote of all its members, may, after all other procedures established by this section have been exhausted, reverse or affirm any order, requirement, decision, or determination of the Planning & Zoning Commission.

5. Appeal of a City Council Decision to District Court

   The decision of the City Council may be appealed to District Court in accordance with NMSA 39-3-1.

6. Appeal of a Historic Preservation Decision

   Appeals of Historic Preservation decisions shall be in accordance with **Sec. 35-1.F. Appeals**.

## G. Notice for a Public Meeting

When a public meeting before the Planning & Zoning Commission or City Council is required by these regulations, notice shall be provided as follows.

1. Notice of Public Meeting Agenda

   The agenda for the public meeting shall be made available no later than 15 calendar days prior to the public meeting.

2. Posted Sign Notice

   a) At least 15 calendar days prior to the public meeting, notice of the proposed development shall be posted in conspicuous places on the subject property by the property owner, applicant, or representative.

   b) A sign measuring four feet by four feet shall be used and secured with appropriate supporting hardware made available by the Community Development Director. When the property has multiple street frontages, one sign per frontage shall be posted. Large properties may require a greater number of signs, which shall be determined by the Community Development Director.

   c) It shall be the responsibility of the property owner, applicant, or representative to ensure continuous visible posting until a final determination is made on the proposal, regardless of the number of reviewing entities involved. In that multiple reviewing entities may be involved, the Community Development Director will inform the property owner, applicant, or representative of necessary changes needed on the sign to reflect the appropriate reviewing entities, meeting dates, and venues.

   d) In the event that notification signs were issued for a case under appeal, the property owner and/or original applicant shall ensure that all signs previously erected for notice purposes remain up until a decision on the appeal is rendered. Modification to and/or replacement of said signs shall be authorized and directed by the Community Development Director to ensure appropriate information regarding the appeal venue is displayed.

   e) Signs must be removed by the property owner, applicant, or representative within one week of the final decision.

3. Mailed Notice

   a) Certified Mailed Notice for Changes Affecting One Block or Less

      Whenever a change is proposed for an area of one block or less, notice of the public meeting shall be mailed by certified mail, return receipt requested, to the owners, as shown by the records of the County treasurer, of lots of land within the area proposed to be changed by a regulation and within 100 feet, excluding public right-of-way, of the area proposed to be changed by regulation.

b) Non-Certified Mailed Notice for Changes Affecting More than One Block

Whenever a change is proposed for an area of more than one block, notice of the public meeting shall be mailed by first class mail to the owners, as shown by the records of the County treasurer, of lots of land within the area proposed to be changed by a regulation and within 500 feet, excluding public right-of-way, of the area proposed to be changed by regulation.

c) If the notice is returned undelivered, the zoning authority shall attempt to discover the owner's most recent address and shall remit the notice by certified mail, with a return receipt requested, to that address.

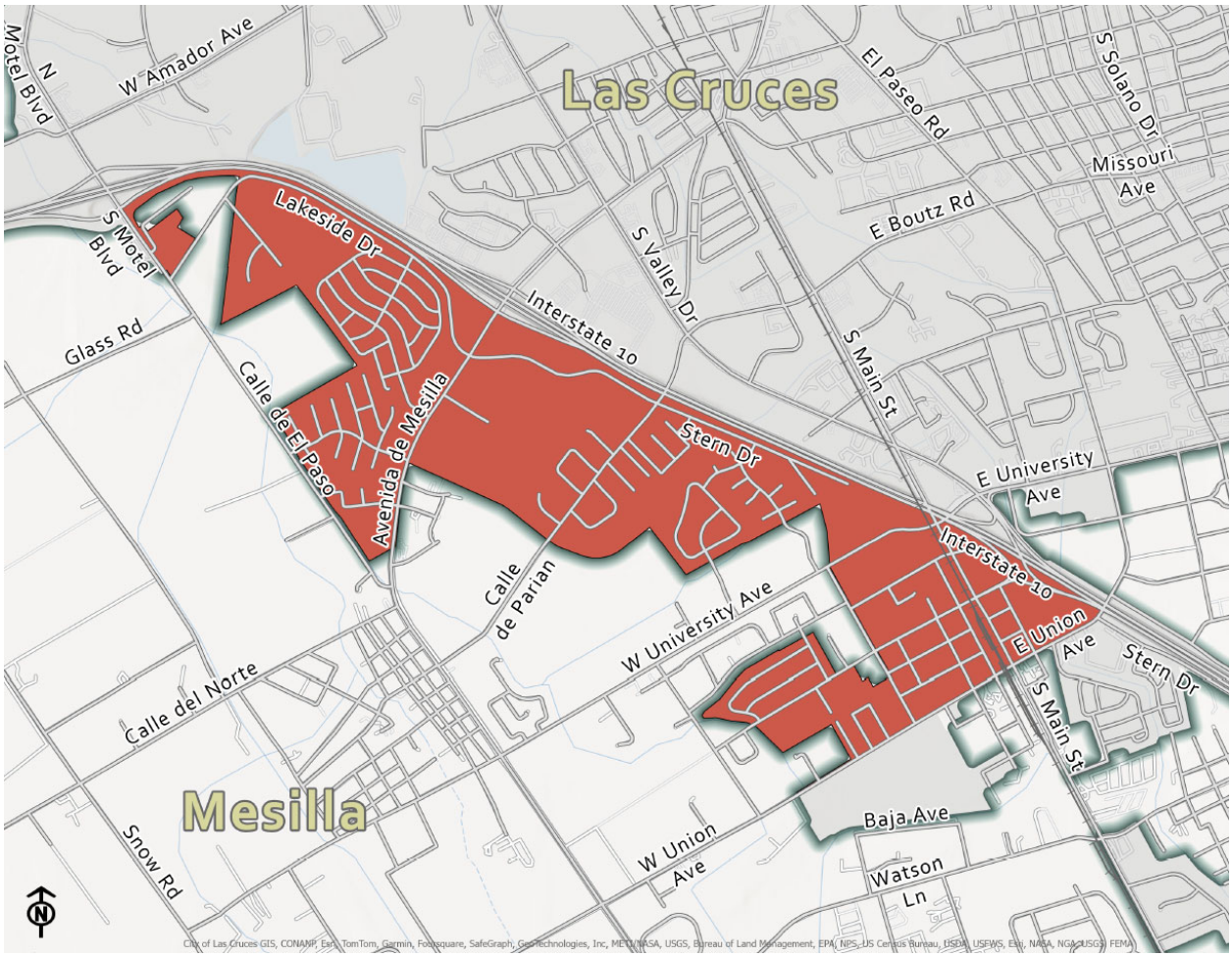
4. Published Notice

Notice of the time and place of the public meeting shall be published at least 15 calendar days prior to the public meeting in a newspaper of general circulation in the City.

5. Special Notice of Planning & Zoning Commission Cases

The Community Development Director shall provide notification, by certified mail, to the Town of Mesilla of all cases presented to the Planning & Zoning Commission for properties located in the area shown in **Figure 34-3-1. Town of Mesilla Special Notification Area Map**.

**Figure 34-3-1. Town of Mesilla Special Notification Area Map**



### H. Early Notification and Meeting Requirements

1. Purpose

   Early notification and meeting requirements are established to provide a courtesy notice to potentially affected community members regarding a proposed development or action prior to the application's submittal.

2. Applicability

   Any application for a rezoning of more than one acre or any development that requires a Master Development Plan shall meet the requirements herein.

   a) Exception: Subdivisions that meet all requirements of the Development Code are not subject to these requirements.

3. Requirements and Notification

   a) The applicant shall facilitate a meeting with the public, providing details of the plan or project seeking approval. The applicant shall secure a meeting facility in a location within the City as close as practical to the project site.

   b) Details of the meeting location, date, and time shall be provided to the City at least 15 business days before the meeting. The City will mail notice to all property owners and registered neighborhood groups within 500 feet of the subject property at least 10 business days before the meeting.

### I. Amendments to this Development Code

1. Petitions for Amendments

   a) Any person or corporation having a proprietary interest in any property may petition the City for an amendment to this Development Code's text.

   b) The Planning & Zoning Commission may, on its own motion or on request from the City Council, study and propose amendments for the City Council's consideration.

2. Planning & Zoning Commission Recommendation

   The Planning & Zoning Commission shall provide a recommendation regarding proposed Development Code amendments following a recommendation by the Development Review Committee and a public meeting held in accordance with **G. Notice for a Public Meeting**.

3. City Council Decision

   Following Planning & Zoning Commission recommendation, the City Council shall decide on the proposed Development Code amendments following a public meeting held in accordance with the City Clerk's typical time frames and processes.

4. Zoning Map Amendments

   Zoning Map amendments (i.e., "rezonings") follow a different process in accordance with NMSA 3-21-6. See **Sec. 36-5.A. Zoning Map Amendments** for more information.

## Sec. 34-4. Annexation Process

### A. Annexation Purpose

The purpose of an annexation is to redesignate property outside the City as being within the City limits thereafter. Annexations can be used to maintain a unified urban area and to promote orderly growth by utilizing City services.

### B. Annexation Process

In accordance with NMSA 3-7-1, there are three methods of annexing territory into a municipality:

1. The arbitration method (NMSA 3-7-5 through 3-7-10);
2. The boundary commission method (NMSA 3-7-11 through 3-7-16); and
3. The petition method (NMSA 3-7-17).

## C. Submittal of an Annexation Application

1. Following a pre-application meeting (see **Sec. 34-3.B. Pre-Application Meeting**) and any required early notification (see **Sec. 34-3.H. Early Notification and Meeting Requirements**), an applicant may submit the annexation application.
2. The annexation application and supplemental material shall be submitted to the Community Development Department no later than 25 calendar days prior to the day of the next regular meeting of the Planning & Zoning Commission for consideration.
3. Applications shall be subject to a Determination of Completeness as outlined in **Sec. 34-3.C.4. Complete Application**.
4. The applicant shall submit the following items and all related checklist materials for consideration of an annexation request:
   a) An Annexation Plat meeting the criteria for a Final Plat (see **Sec. 37-3.D. Final Plat**).
   b) An Annexation Plan meeting the criteria for a Master Development Plan (**Sec. 37-3.A. Master Development Plan**) identifying the purpose for which the property is intended to be used.
   c) An initial zoning request shall be submitted concurrently with the annexation application. The initial zoning of land shall occur jointly with the annexation procedures but shall occur as a separate and distinct action by the City Council.
   d) A cost-benefit analysis to compare long-term public revenues and expenditures related to the proposed development. The analysis shall be commissioned by the City at the expense of the applicant. City-commissioned fiscal impact analyses should be conducted according to a standard methodology developed and endorsed by the City in conjunction with a qualified third party. The analysis should consider factors such as the need to extend and indefinitely maintain City infrastructure (e.g., utilities, roadways, parks) and increased demand on City services (e.g., police, fire, libraries). The report shall also consider anticipated revenues generated by the development. The City may waive the requirement for a fiscal impact analysis where annexation is proposed to incorporate land already serviced by City utilities, to improve public health, or to absorb municipally owned land.

## D. Review and Consideration of an Annexation Request

1. Criteria for Consideration

   Review and approval entities shall consider the following criteria when evaluating an annexation request:

   a) Whether adequate public facilities are available in the area,
   b) Potential fiscal, sustainability, and environmental impacts;
   c) Compatibility with pre-existing and proximate land uses;
   d) Availability of land within the municipal limits that can accommodate the proposed land use; and
   e) Conformity to the growth patterns and development policies promoted in the Comprehensive Plan and other long-range planning documents.

2. Board of County Commissioners Comment

   In accordance with NMSA 3-7-17.1, the City shall submit the petition to the Board of County Commissioners for review and comment.

3. Development Review Committee Recommendation

   Annexation requests shall be forwarded to the Development Review Committee for review, comment, and recommendation.

4. Planning & Zoning Commission Recommendation

   Following Development Review Committee review, the Annexation Plat, Annexation Plan, initial zoning request, and cost-benefit analysis (if applicable) shall be scheduled for a public meeting for Planning & Zoning Commission recommendation.

   a) A written report shall be provided to the Planning & Zoning Commission from the Development Review Committee.

   b) The Planning & Zoning Commission shall recommend either approval, conditional approval, postponement, or disapproval of each element of the annexation request.

   c) It is the requirement of the Planning & Zoning Commission that no annexation request shall be reviewed unless either the applicant or the applicant's representative is present at the public meeting. If neither is present at the public meeting, the request will be postponed until the next regular Planning & Zoning Commission meeting.

5. City Council Decision

   a) Following a recommendation by the Planning & Zoning Commission, the annexation request and the initial zoning request shall be forwarded to the City Council for a public meeting and final action.

   b) The annexation request and the initial zoning request will be scheduled for the next available regular City Council meeting once staff has received the minutes of the Planning & Zoning Commission public meeting and all public notice requirements are met.

   c) The City Council shall approve, amend, postpone, or disapprove each element of the annexation request.

   d) A copy of the notice of decisions that include any changes or conditions the Planning & Zoning Commission and City Council made at public meetings shall be provided to all appropriate parties in accordance with **Sec. 34-3.D. Notice of Decision**.

# Sec. 34-5. Definitions

## A. Usage and Interpretation

For the purpose of this Development Code (Chapters 34 through 38), the following terms used herein shall be interpreted or defined as follows:

1. Words used in the present tense include the future tense;
2. The singular includes the plural;
3. The word "person" includes a corporation as well as an individual;
4. The term "shall" is always mandatory; and
5. The term "may" is discretionary.

Words and terms not expressly defined herein are to be construed according to the normally accepted meaning of such words or terms in the practice of municipal planning and engineering.

## B. Terms Defined: A-D

**1. Abandoned Sign**

A sign that no longer directs, promotes, or advertises a bona fide business, lessee, owner, product, or activity conducted or product or service. See **Sec. 38-10.K.2. Abandoned Signs**.

**2. Absolute Photometry**

A photometric measurement (usually of a solid-state luminaire) that directly measures the output of the luminaire. Reference Standard IES LM-79.

**3. Accelerated Erosion**

Rapid erosion caused by artificially induced alteration of the vegetation, land surface topography, or runoff patterns.

**4. Accessory Structure**

See **Sec. 36-3.B. Use Classifications and Use-Based Standards**.

**5. Accessory Uses**

A use incidental to and customarily associated with a specific principal use located on the same lot or parcel.

**6. Activity/Activities**

Any land stripping, earthmoving, trenching, road construction, and demolition or renovation of manmade facilities.

**~~6.~~7. Addition**

Any act or process that changes one or more of the exterior architectural features of a building or structure by increasing the size or capacity of a structure through new construction or by joining one or more existing structures.

**~~7.~~8. Adjacent**

Next to or adjoining something else.

**~~8.~~9. Agricultural Stormwater Runoff**

Any stormwater runoff from orchards, cultivated crops, pastures, range lands, and other non-point source agricultural activities, but not discharges from concentrated animal feeding operations as defined in 40 CFR Section 122.23 or discharges from concentrated aquatic animal production facilities as defined in 40 CFR Section 122.24.

**~~9.~~10. Air Contaminant**

Smoke, vapor, charred paper, dust, soot, grime, carbon, fumes, gases, odors, particulate matter, windborne matter, or any air contaminant for which there is no national ambient air quality standard, and that is or may become harmful to public health or the environment when present in the outdoor atmosphere in sufficient quantities or duration.

**~~10.~~11. Alley**

Alleys provide access to the rear yards and can enhance pedestrian safety and traffic circulation. Rear service alleys can be used for solid waste collection services and/or additional off-street parking to accommodate expanded multimodal infrastructure or reduced right-of-way requirements along adjacent Local Streets, Collectors, or Arterial roadways.

**~~11.~~12. Alluvial Fan Flooding**

Flooding on the surface of an alluvial fan or similar landform that originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths. Alluvial fan flooding is shown as Zone AO on a Flood Insurance Rate Map (FIRM) with a flood depth and velocity.

**~~12.~~13. Alteration**

Any change to the exterior of a building, site, object, or structure, including, but not limited to, the construction, reconstruction, or removal of any architectural or structural elements; or changes to an interior space of a publicly accessible building designated as a historic landmark.

**~~13.~~14. Ambient Air**

That portion of the atmosphere, external to buildings, to which the general public has access. Land owned or controlled by the stationary source and to which public access is precluded by a fence, physical barriers, or other effective means is exempted from the ambient air provisions.

**15. Anthropogenic**

Created or caused by human activity.

**~~14.~~16. Apex**

The top or narrow point of the alluvial fan.

**~~15.~~17. Appeal**

A request for a review of an interpretation or decision. See **Sec. 34-3.F. Appeals**.

**~~16.~~18. Applicant**

The person or entity responsible for the submittal of an application. The applicant must be the actual owner of the subject property or a representative designated in writing by the owner.

**~~17.~~19.Architectural Lighting/Architectural Illumination**

Lighting designed to reveal architectural beauty, shape and/or form and for which lighting for any other purpose is incidental.

**~~18.~~20.Area of Shallow Flooding**

A designated AO, AH, or VO zone on the City of Las Cruces's flood insurance rate map (FIRM) with a one-percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**~~19.~~21.Area of Special Flood Hazard**

An area having special flood, mudflow or flood-related erosion hazards and shown on a Flood Insurance Rate Map (FIRM) Zone A, AO, A1-A30, AE, A99, AH, AR, V1-V30, VE, or V. The SFHA is the area where the National Flood Insurance Program's (NFIP's) floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies.

**~~20.~~22.Arroyo**

A dry creek, streambed, or gully that temporarily or seasonally fills and flows after sufficient rain.

**~~21.~~23.Arterial Street**

See #223 Minor Arterial and #279 Principal Arterial.

**~~22.~~24.Astronomic Time Switch**

An automatic lighting control device that switches outdoor lighting relative to the time of solar day with time of year correction.

**~~23.~~25.Attached Sign**

A type of sign that is fastened to, connected to, or painted on and wholly or partially supported by a building. See **Sec. 38-10.G. Sign Types and Supplemental Standards**.

**~~24.~~26.Awning**

A hood or cover that projects from the wall of a building and is composed of rigid or nonrigid materials.

**~~25.~~27.Backfill**

Soil that is replaced in a hole or trench after excavation and placement of utilities, conduct, structures, or plant materials.

**~~26.~~28.Backflow**

The reversal of the normal flow of water (potable or non-potable) or other substances into a drinking water system that may be caused by back siphonage or back pressure in the presence of a cross-connection.

**~~27.~~29.Backlight**

For an exterior luminaire, flux radiated in the quarter sphere below horizontal and in the opposite direction of the intended orientation of the luminaire. For luminaires with symmetric distribution, backlight will be the same as front light.

**~~28.~~30.Base Flood**

The flood having a one-percent chance of being equaled or exceeded in any given year.

**~~29.~~31.Base Flood Elevation (BFE)**

The elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a one-percent chance of equaling or exceeding that level in any given year - also called the Base Flood.

**~~30.~~32.Basement**

Any area of the building having its flood sub-grade (below ground level) on all sides.

**~~31.~~33.Best Management Practices (BMP)**

The correct application of the current scientific principles to the evaluation, design, construction, and maintenance of engineering projects. All projects must meet the minimum standards as adopted by the City. All designs are based on health, safety, convenience, and general welfare of the public.

**~~32.~~34.Billboard**

A freestanding sign type that typically includes a concrete foundation, metal pole structure, and a flat surface upon which a display panel or a material such as vinyl, canvas, or plastic surface is placed. See **Sec. 38-10.D. Prohibited Signs**.

**~~33.~~35.Block**

Land surrounded on all sides by streets or other rights-of-way or by physical barriers such as bodies of water or public open spaces.

**~~34.~~36.Buffer Yard**

An area along the property line between various districts that have differing intensities and impacts intended to promote public health, safety, and welfare. See **Sec. 38-8.D. Required Buffer Yards**.

**~~35.~~37.BUG**

A luminaire classification system that evaluates backlight (B), uplight (U), and glare (G).

**~~36.~~38.Build-To Line**

A line established within a certain distance from the front property line, in front of which a building facade (or a percentage of a facade) must be built. Build-To Lines are typically used to place buildings closer to the street frontage, resulting in more pedestrian-oriented development.

**~~37.~~39.Building**

Any structure as defined in Chapter 30 of the Las Cruces Municipal Code.

**~~38.~~40.Building Height**

The height of a building measured from the lowest adjacent ground surface level to the highest point of the building or from the elevation of the adjacent ground, whichever is lower. Building height excludes chimneys, flagpoles, cooling towers, elevators, bulkheads, penthouses, tanks, water towers, radio towers, ornamental cupolas, domes and spires, and parapet walls not exceeding ten feet in height.

**~~39.~~41.Building Official**

The City official authorized to administer the Building Code or their designee. See Chapter 30. Buildings and Building Regulations of the Las Cruces Municipal Code.

**~~40.~~42.Building Permit**

Any duly authorized permit for construction issued by the Building Official authorizing construction or demolition, including soil disturbance. See **Sec. 36-5.E. Building Permits and Certificates of Occupancy** and LCMC, Chapter 30, Article II, Division 2, Sections 30-171 through 30-722.

**~~41.~~43.Candela**

The basic SI (Systeme International d'Unities) unit of luminous intensity. One candela is one lumen per steradian.

**~~42.~~44.Canopy or Marquee**

A permanent, roof-like shelter extending from part or all of a building or independent of a building.

**~~43.~~45.Certificate of Appropriateness**

A written record issued by the Historic Preservation Committee or City Staff on behalf of the Committee, authorizing plans for alterations, construction, removal, or demolition of a building, structure, object, or site located within a historic district or designated as a cultural property. See **Sec. 35-3. Plan Review, Certificates of Appropriateness, and Economic Hardship**.

**~~44.~~46.Certificate of Economic Hardship**

A written record of relief issued by the Historic Preservation Committee, following the denial of a Certificate of Appropriateness, that authorizes plans for additions, alterations, construction, removal, continuation of a non-compliant condition, or demolition in whole or part of a building, structure, object, or site that is located within a historic district or designated as a cultural property when the property owner is unable to either fund the required work, put the property to a reasonably beneficial use, and/or cannot obtain a reasonable economic return thereon without completion of the requested course of action. See **Sec. 35-3.D. Certificate of Economic Hardship**.

**~~45.~~47.Certificate of Occupancy**

The permit issued by the Building Official to indicate that a structure may be occupied and/or used for its approved purpose(s). See **Sec. 36-5.E. Building Permits and Certificates of Occupancy**.

**~~46.~~48.Certified Local Government (CLG)**

A unit of local government (town, city, or county) that has met the requirements of and has applied for certification to the State to become a fully participating partner in national and state historic preservation programs.

**~~47.~~49.Change of Occupancy**

Where the occupancy of a space changes from one group of occupants to another group of occupants, or changes from one division to another division in the same occupancy group (as defined in the International Building Code).

**~~48.~~50.Channel**

A natural or artificial watercourse (including arroyos, streams, swales, ditches, diversions, and manmade facilities) with a defined bed and banks that conducts continuously or periodically flowing water.

**~~49.~~51.Character Areas**

The City is divided into three types of Character Areas:

(a) Rural Character Area

(b) Suburban Character Area

(c) Urban Character Area

See **Sec. 36-2.B.2. Character Areas** for more information.

**52. Chemical/Organic Stabilizer**

Any nontoxic chemical or organic dust suppressant other than water which meets and specifications, criteria, or tests required by any federal, state or local water agency and is not prohibited for use by the U.S. Environmental Protection Agency (EPA) or any applicable law, rule or regulation.

**~~50.~~53. City**

The City of Las Cruces administrative government, which encompasses all lands within the City's corporate boundary as designated by the present City limit location(s).

**~~51.~~54. City Council**

The governing body of the City of Las Cruces, New Mexico. See **Sec. 34-2.A. City Council**.

**~~52.~~55. Clear Sight Triangle**

An area of unobstructed vision at street intersections and entrances/exits, permitting a vehicle driver to see approaching vehicles to the right or left. See **Sec. 38-2.H. Clear Sight Triangle**.

**~~53.~~56. Clearing and Grubbing**

Any activity that removes the vegetative surface cover from a site. Clearing includes removing and disposing of all unwanted surface material, such as trees, brush, grass, weeds, downed trees, and other material. Grubbing includes removing and disposing of all unwanted vegetative matter from underground, such as stumps, roots, buried logs, and other debris.

**~~54.~~57. Code Enforcement Officer**

The City official(s) designated to enforce and ensure compliance with this Development Code and other ordinances adopted by the City, or their designee.

**~~55.~~58. Codes**

Any other applicable local, state, or federal codes.

**~~56.~~59. Collector Street**

Collectors provide access from local streets through neighborhoods to arterials. Collectors are used for short trips within a small geographical area rather than across the region.

**~~57.~~60. Co-Location**

To install, mount, maintain, modify, operate, or replace one or more wireless facilities on, in, or adjacent to a wireless support structure or utility pole. See **Sec. 38-11.D. Co-Location**.

**~~58.~~61. Common Wall or Common Fence**

An artificially constructed barrier or structure along a property line between two or more properties owned by two or more separate property owners. See **Sec. 38-8.C.3. Common Walls or Fences**.

**~~59.~~62. Community Development Director**

The Director of the City's Community Development Department (or successor department charged with overseeing land use and development in the City), as appointed by the City Manager. This term also includes the Director's designee(s) or Consultant.

**~~60.~~63. Compaction**

The process of making a soil denser through the application of dynamic impact to the soil mass. Specific minimum requirements are found within the current City construction specifications (standard specifications for road construction).

**~~61.~~64. Compatibility**

The positive relationship of alterations to existing buildings and designs for new construction to their environs, measured by consistent application of accepted design guidelines and standards that define the individual visual character, function and use, and architectural features of a specific geographic area.

**~~62.~~65. Comprehensive Plan**

The most recent City-adopted policy document that serves as the guide for the future physical development of the City and any actions concerning land use and development.

**~~63.~~66. Concept Plan**

A Concept Plan is a required step in the Planned Unit Development (PUD) process that is intended to assist in identifying the appropriateness of a proposed development within the context of its surroundings. The Concept Plan forms the basis for approval of the PUD. See **Sec. 36-5.D.2.d) Step 2: Concept Plan**.

**~~64.~~67. Conduit**

An underground, nonmetallic, waterproof enclosure for voltage-carrying street light circuits.

**~~65.~~68. Construction**

Any act or process that requires a building permit.

**~~66.~~69. Construction and Demolition Activities**

Any on-site activities preparatory to or related to building alteration, rehabilitation, removal or razing, or improvement on real property, including the placement and upkeep of mobile or manufactured homes or buildings. "Construction" also means construction of roadway systems including, arterials, expressways, interstates, tunnels, overpasses, bridges, interchanges, residential and commercial streets within a subdivision, and airport runway improvements.

**~~67.~~70. Construction Plans**

Construction Plans are a set of detailed drawings and studies that ensure public improvements are installed to serve a development in accordance with all applicable regulations. See **Sec. 37-3.C. Construction Plans**.

**~~68.~~71. Contiguous Property**

Parcels of property that are in contact or touching.

**~~69.~~72. Contributing Property**

A building, object, site, or structure in a historic district that enhances the district's historical and/or architectural significance through location, design, setting, materials, workmanship, and/or association and as determined by the SHPO.

**~~70.~~73. Control Measures (CMs)**

Defined procedures intended for controlling the detachment of soil, the movement of water and/or the deposition of sediment.

**~~71.~~74.Control Plan**

A written description of all reasonably available control measures (RACMs) to be implemented at a work site and/or in transit to and from a work site for any earth-moving, construction, or potential dust-generating operation. Such written description may be incorporated into building and construction plans or a separate document submitted with said plans.

**~~72.~~75.County**

Doña Ana County, New Mexico.

**~~73.~~76.County Clerk's Office**

The Doña Ana County Clerk's Office, which maintains records such as resolutions, ordinances, plats, and permits.

**~~74.~~77.Crown**

The cross slope or difference in elevation between the high point of a street (usually the centerline of the street) and the gutter line, adjacent to the pavement edge, for any given cross section. Crown is normally expressed as a percentage or inches of vertical change per foot of horizontal distance.

**~~75.~~78.Cul-De-Sac**

A minor street with only one outlet and culminated by a turnaround. See **Sec. 38-2.E.4. Cul-de-Sacs and Dead-End Streets**.

**~~76.~~79.Cultural Landscape**

A geographic area, including both cultural and natural resources and the wildlife or domestic animals therein, associated with a historic event, activity, or person, or exhibiting other cultural or aesthetic values. The four general types of cultural landscapes are: historic sites, historic-designed landscapes, historic vernacular landscapes, and ethnographic landscapes.

**~~77.~~80.Cultural Properties Review Committee (CPRC)**

The committee appointed by the Governor of the State of New Mexico and established by the Cultural Properties Act NMSA 1978, Sections 18-6A-1 et seq. (as amended) to serve as a professional policy-making and advisory board for historic preservation in New Mexico.

**~~78.~~81.Cultural Property**

Any building, structure, object, improvement, or site of particular historic or aesthetic significance to the city, the state, or the nation where cultural, political, spiritual, economic, educational, archaeological, social, or artistic history of the community, state, or nation is reflected or exemplified or which is identified with historic personages or with important events in local, state, or national history, or which embody the distinguishing characteristics of an architectural specimen, inherently valuable for representation of a period, style, or method of construction, or a notable work of construction, or a notable work of a master designer or architect whose individual genius influenced a particular period of time or aesthetic movement; also known as a cultural resource or a historic landmark. See **Sec. 35-2.D. Cultural Property Designation**.

**~~79.~~82.Cultural Property Designation Report**

A report prepared by City Staff that provides the history of a property, a map of its location, and historic and current views of the property, and includes a determination of eligibility based upon the application of the National Register Criteria for Evaluation to present for recommendation before the City Council. See **Sec. 35-2.D.2.l) Eligibility Report**.

**~~80.~~83.Curb Cut**

A depressed segment of a vertical roadway curb.

**~~81.~~84.Curb Return**

A curved segment of curb used at each end of an opening in the roadway curb.

**~~82.~~85.DBH**

See #96 Diameter at Breast Height.

**~~83.~~86.Dedicated Easement**

A public easement that is dedicated for public use and is recorded as such in the County Clerk's Office. See #108 Easement.

**~~84.~~87.Demolition**

Any act or process that requires a building permit for the purpose of removing or destroying, in whole or in part, any improvement to a site.

**~~85.~~88.Demolition by Neglect**

Any voluntary or involuntary act or process that results in a failure to maintain a building, structure, object, or site in sound condition when such act or process, over a period of time, results in the visible deterioration or removal, in whole or in part, of any man-made component on the site. See **Sec. 35-3.C.5. Demolition by Neglect and Deferred Maintenance**.

**~~86.~~89.Design Guidelines**

The written standards adopted by the City intended to provide technical advice and guidance to the Historic Preservation Committee and the Historic Preservation Specialist to evaluate applications to preserve the historical, cultural, and architectural character of an area or of a building, object, site, or structure.

**~~87.~~90.Designated Property**

A property that has been recognized as historically significant at the local, state, and/or national level by being listed in the Register of Cultural Properties, the State Register of Cultural Properties, and/or the National Register of Historic Places.

**~~88.~~91.Designee**

A City official designated full authority by the decision-maker or City Manager to conduct an act on the decision-maker's behalf.

**~~89.~~92.Detention Basin**

A detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

**~~90.~~93.Determination of Completeness**

The determination made by the Community Development Director that an application is accompanied by all required documents and has been prepared in accordance with the requirements of this Development Code. Acceptance of an application does not indicate approval or compliance with the Development Code's standards. See **Sec. 34-3.C.4. Complete Application**.

**~~91.~~94.Development**

Any human-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials. Development includes, but is not limited to, such activities as the construction, reconstruction, alteration of the size, or material change in the external appearance of a structure or land; commencement of mining excavation, trenching, or grading; demolition of a structure or removal of vegetation; deposit of refuse, solid waste or fill; alteration of a floodplain, or bank of a watercourse.

**~~92.~~95.Development Code**

This Development Code (sometimes referred to as the "Code") adopted by the City Council, including any future amendments.

**~~93.~~96.Development Project**

Any development resulting from the approval of a building permit, lot split, preliminary or final plat, rezoning application, grading permit, public or private infrastructure improvement, variance requests, development review, master plans, native plant removal, relocation or revegetation, or use permit.

**~~94.~~97.Development Review Committee (DRC)**

An informal group of representatives employed or retained by the City whose duties include reviewing development-related proposals and resolving conflicting comments, recommendations, or design differences between City reviewing departments and applicants. See **Sec. 34-2.C. Development Review Committee**.

**~~95.~~98.Development Schedule**

The calendar maintained by the Community Development Director identifying Official Submittal Dates and upcoming meeting schedules.

**~~96.~~99.Diameter at Breast Height (DBH)**

The diameter of a tree as measured at four-and-one-half feet above grade. ~~Abbreviated "DBH."~~

**~~97.~~100.Discretion**

Reasonable discretion of the decision-maker, given the specific issue, situation, past actions on previous similar decisions, and other available information.

**~~98.~~101.Disturbed Area**

Any area in which the soil will be altered by grading, leveling, scraping, cut and fill activities, excavation, brush and timber clearing, grubbing, and unpaved soils on which vehicle operations and/or construction activities will occur.

**~~99.~~102.Drainage Plan**

A plan indicating an on-site drainage proposal, the passage of stormwaters through the development and safe discharge of runoff onto adjacent lands or into storm drainage facilities. Also, a comprehensive analysis of (i) the existing storm drainage conditions of a proposed development, and (ii) the disposal of the increased runoff which is generated by the proposed development.

~~**100. DRC**~~

~~See #94 Development Review Committee.~~

**~~101.~~103.Driveway**

A point of vehicular access between a street and an abutting property, and is further defined to include:

(1) The area between the face of curb and the right-of-way line for streets with curbs.

(2) The area between the edge of pavement of the outside travel lane and the right-of-way line for strip paved streets.

(3) The area between the right-of-way line and 15 feet from the right-of-way line toward the street for completely unimproved streets.

**~~102.~~104.Driveway Apron**

The drivable portion of the driveway approach extending from the property side of the curb to the sidewalk section and lying between the end slopes of the driveway approach.

~~**103. DUA**~~

~~See #107 Dwelling Units Per Acre.~~

**~~104.~~105.Dust Generating Operation**

Any activity or source capable of generating emissions of fugitive dust or causes off-property transport, including, but not limited to, activities associated with creating a disturbed area, construction and demolition activities, and the movement of vehicles on unpaved roadways or parking areas.

**~~105.~~106.Dust or Dust Emissions**

The finest particulates within the soil that may be transported and deposited by a blowing wind initiated by a surface disturbance that could present a health or safety hazard to the adjacent area or its occupants.

**107. Dust Suppressant**

A chemical compound or mixture of chemical compounds added with or without water to a dust source for purposes of preventing air entrainment.

**~~106.~~108.Dwelling**

A building or part of a building, containing living, sleeping, housekeeping accommodations, and sanitary facilities for occupancy by one or more families.

**~~107.~~109.Dwelling Units Per Acre (DUA)**

The total number of dwelling units divided by the total site acreage. Dwelling units per acre (DUA) is calculated using gross acreage of the proposed development, including any floodplain, rights-of-way, and other undevelopable land.

Example calculation:

45 dwelling units on a 5-acre site = 9 DUA

4 dwelling units on a 20,000-square-foot site (0.459 acres) = 8.7 DUA

## C. Terms Defined: E-K

**~~108.~~110.Easement**

A non-possessing interest held by one person, party, or entity in land of another, whereby, that person is accorded partial use of such land for a specific purpose. An easement restricts but does not abridge the right of the fee owner to the use and enjoyment of their land.

~~109.~~111. **Emergency Outdoor Lighting**

Generally, lighting that is only energized by an emergency power source; or to illuminate the path of egress solely during a fire or other emergency situation; or lighting for security purposes used solely during an alarm.

~~110.~~112. **Emission**

An air contaminant, or the act of discharging an air contaminant, visible or invisible that could cause a health and safety hazard to the adjacent area and its occupants.

~~111.~~113. **Engineering Site Review**

A surficial review of a site to determine its preliminary engineering capacity based on exposed indicators that include historical site stability and past development(s). This investigation is performed under the direction of a Professional Engineer.

~~112.~~114. **Erosion**

Geological process in which earthen materials are worn away and transported by natural forces such as wind or water.

~~113.~~115. **Erosion and Sediment Control Plan**

A set of plans prepared by or under the direction of a licensed professional engineer indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

~~114.~~116. **Erosion Control**

Measures used to reduce the amount of soil particles that are carried off of a land area and deposited in a receiving water.

~~115.~~117. **ETZ**

Extraterritorial zone.

~~116.~~118. **Expansive Soils**

Soils that contain a high concentration of clay-sized particles that, when wetted, will expand in size and lose strength, or, when dried, will shrink and form a hard cemented layer. These soils are typically restrictive to water passage or infiltration.

~~117.~~119. **Exterior Appearance**

The visual character of all outside surfaces of a structure, including the kind and texture of materials, signs, light fixtures, steps, or appurtenant elements.

~~118.~~120. **Exterior Features**

Architectural or structural elements that define the architectural style and general design patterns of the exterior of a building or structure, including the type and texture of building materials and the type, style, and general arrangement of all windows, doors, ornamental features, light fixtures, signs, fences, walls, and other elements, as well as other natural features such as vegetation, trees, and shrubbery.

~~119.~~121. **Family**

Persons related by blood or marriage, or a group of persons who need not be related by blood or marriage, living together as a single housekeeping unit.

**~~120.~~122.Fee In Lieu**

A payment of money in place of meeting all or part of the standards required by this Development Code.

**~~121.~~123.Fee Schedule**

A listing of fees for various applications, which is prepared by the City Manager's Office and approved by the City Council. The Fee Schedule may be amended periodically. The Fee Schedule is approved and maintained separately from this Development Code.

**~~122.~~124.Fence**

Any artificially constructed access barrier consisting of posts, wire, wood, steel, cable, or similar material to enclose or screen areas of land. Included within this definition are prefabricated fence panels (wood, plastic, or metal) that are typically sold at building supply stores. See **Sec. 38-8. Fencing, Screening, and Buffering**.

**~~123.~~125.Final Plat**

The official and authentic map of any given subdivision of land prepared from actual field measurement and staking of all identifiable points by a surveyor or engineer with the subdivision location referenced to a survey corner and all boundaries, corners, and curves of the land division sufficiently described so that they can be reproduced without additional references. The Final Plat shall be filed and recorded with the County Clerk's Office. A Final Plat may also be referred to as a Record Plat or Plat of Record. See **Sec. 37-3.D. Final Plat**.

**~~124.~~126.Finding of Fact**

The conclusions found to be true from an examination of the underlying evidence and testimony of a case under consideration in accordance with established review criteria.

**~~125.~~127.Fire Department**

The City's fire department or any duly authorized representative thereof.

**~~126.~~128.Flexible Development Standard**

A numerical deviation from the Development Code requirements that may be approved administratively. See **Sec. 34-3.E. Flexible Development Standard**.

**~~127.~~129.Flood Elevation Study**

An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (e.g., mudflow) or other flood-related erosion hazards.

**~~128.~~130.Flood Hazard Area**

An area subject to inundation from the 1-percent probability storm.

**~~129.~~131.Flood Insurance Rate Map (FIRM)**

Official map of a community that defines both the special flood hazard areas and flood zones applicable to the community. This map is used by the National Flood Insurance Program (NFIP) for floodplain management, mitigation, and insurance purposes.

**~~130.~~132.Flood Insurance Study (FIS)**

The official report provided by the Federal Emergency Management Agency. The report compiles and presents flood risk data for specific watercourses, lakes, and other flood hazard areas within a community.

~~131.~~133. **Flood Lamp**

A specific form of lamp designed to direct its output in a specific direction (a beam) with a reflector formed from the glass envelope of the lamp itself, and with a diffusing glass envelope. Such lamps are so designated by the manufacturers and are typically used in residential outdoor area lighting.

~~132.~~134. **Floodproofing**

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

~~133.~~135. **Floodplain Management**

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

~~134.~~136. **Floodplain Management Regulations**

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

~~135.~~137. **Floodplain or Floodprone Area**

Any land area susceptible to being inundated by flooding.

~~136.~~138. **Floodway**

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot cumulatively. Also referred to as “Regulatory Floodway”.

~~137.~~139. **Floor Area**

The gross square feet of floor area within a building or portion thereof. For the purpose of this Code, floor area and gross floor area shall be the same, and shall be based on the outside dimensions of a building as shown on a plot plan, and shall include interior balconies, mezzanines, stairwells, storage areas, mechanical equipment areas, and basements.

~~138.~~140. **Freeway**

A divided multilane highway for through traffic with all crossroads separated in grade and with full control of access.

~~139.~~141. **Freestanding Sign**

A type of sign attached to or supported from the ground and not attached to a building. See **Sec. 38-10.G. Sign Types and Supplemental Standards**.

~~140.~~142. **Frontage**

A specified distance measured along a right-of-way property line or access easement.

~~141.~~143. **Frontage Road**

A local street parallel to and adjacent to another street, normally a highway or a freeway.

**144. Fugitive Dust**

Particles lifted into the ambient air by manmade and natural disturbance activities such as the movement of soil, vehicles, equipment, blasting, and wind.

**~~142.~~145.Full Cutoff (or Fully Shielded) Luminaire**

A luminaire where zero candelas occur at or above an angle of 90 degrees and a maximum of ten percent candelas at 80 degrees above the nadir of the installed luminaire. This applies to all lateral angles around the luminaire. Such candela information shall be determined by a photometric test report from a nationally recognized independent testing agency and as certified by the manufacturer.

**~~143.~~146.Geotechnical Soils Investigation**

A geotechnical investigation includes surface exploration and subsurface exploration of a site. Subsurface exploration usually involves soil sampling and laboratory tests of the soil samples to establish their unique engineering design properties. Investigations are documented with all findings, location(s), investigation equipment listing, with field crew names, and the responsible Professional Engineer.

**~~144.~~147.Geotechnical Soils Report**

A written summary report containing all information obtained from a geotechnical soils investigation, a discussion of the findings and their evaluation(s), and a summary of specific engineering design recommendations, parameters, or designs. This document is signed and sealed by a Professional Engineer.

**~~145.~~148.Glare**

Lighting entering the eye directly from luminaires or indirectly from reflective surfaces that causes visual discomfort or reduced visibility.

**~~146.~~149.Glazing**

The transparent or translucent material (i.e., windows or doors with glass) on the exterior of a building. In calculating Glazing, the window assembly/frame are included; however, only the glass portion is included for a door. Where Glazing is required, ground floors must have a Visible Light Transmittance (VLT) of 0.6 (that is, 60% of light is transmitted) or higher to meet the requirements herein.

**~~147.~~150.Grading**

Grading includes any excavation, clearing, filling, leveling, or contouring of the ground surface by human or mechanical means. Site grading is performed to ensure a level base or obtaining a specific slope on the land.

**~~148.~~151.Grading Plan**

A plan describing the existing topography and proposed grading, including retaining walls and details, interfaces with adjacent properties, streets, alleys, and channels, referenced to mean sea level based on a city benchmark, and showing sufficient contours, spot elevations, and cross sections to allow a clear understanding by reviewers, contractors, and inspectors.

**~~149.~~152.Ground Water**

Groundwater is water that exists underground in saturated zones beneath the land surface. The upper surface of the saturated zone is the water table.

~~150.~~153. **Hardship**

A restriction on property so unreasonable that it results in an arbitrary and capricious interference with basic property rights, and the property is rendered unusable without the granting of a variance or other relief.

154. **Haul Road**

A road constructed for, or used for, the purpose of hauling construction materials, or to provide access to one or more construction sites or industrial operations.

~~151.~~155. **High Wind Event**

A climatological occurrence in which the average wind speed exceeds a threshold in which fugitive dust will be generated from undisturbed areas, naturally covered areas, disturbed areas, and construction sites, regardless of reasonably available control measures implementation. The average wind speed for high wind events is a sustained wind speed of 25 miles per hour or greater.

~~152.~~156. **Highest Adjacent Grade**

The highest natural elevation of the ground surface next to a finished structure's walls or, if the structure has not been constructed, next to the proposed walls of the structure.

~~153.~~157. **Historic Building**

Any building or structure that is listed in the State or National Register of Historic Places; designated as a historic property under local or state designation law or survey; certified as a contributing resource within a National Register-listed or locally designated historic district; or with an opinion or certification that the property is eligible to be listed on the National or State Register of Historic Places either individually or as a contributing building to a historic district by the State Historic Preservation Officer or the Keeper of the National Register of Historic Places.

~~154.~~158. **Historic Character**

Those architectural forms, materials, elements, features, construction methods or craftsmanship, spatial arrangements, and architectural style that, when combined, result in a distinctive setting, feeling, building, or area.

~~155.~~159. **Historic Context**

Summary information about the period, local setting and/or surroundings, circumstances, associations, and events that created, influenced, or resulted in the development of a specific property or group of properties, collected to assist in the development of a full understanding and assessment of the property.

~~156.~~160. **Historic Cultural Properties Inventory (HCPI) Form**

The form provided by City Staff upon request to an applicant interested in nominating a property or properties within a potential district for inclusion in the local Register of Cultural Properties in which baseline information is compiled to determine potential nomination eligibility. See **Sec. 35-2.D.2. Procedure for the Designation of a Cultural Property**.

~~157.~~161. **Historic District**

An area in the City designated under local, state, or federal authority that contains within definable geographic boundaries one or more properties zoned with a Historic Preservation Overlay, including accessory structures, fences, and other appurtenances having historical, cultural, and archaeological significance, and which may contain an assortment of properties classified as significant, contributing, noncontributing, and intrusive.

**~~158.~~162.Historic District Designation Report**

A report prepared by City Staff that provides the history of a cluster of properties, a map of their location, and historic and current views of the properties, and a determination based upon the application of evaluation criteria for review by the Historic Preservation Committee. See **Sec. 35-2.E.2. Procedure for the Designation of a Historic District**.

**~~159.~~163.Historic Eligible**

A property that appears to meet the criteria for designation.

**~~160.~~164.Historic Integrity**

A determination of the extent that a site, structure, object, building, or area retains its defining archaeological, historic, and/or cultural attributes associated with one or more of the National Register Criteria for Evaluation.

**~~161.~~165.Historic Interior**

An architecturally or historically significant interior space that remains substantially intact in terms of original configuration; original volume; and/or original architectural ornamentation and decoration, which exhibits surviving original historical finishes or has the potential for accurate restoration of such finishes; and which is open, to be used by, or may be used by the public.

**~~162.~~166.Historic Preservation Committee**

The committee created by the City Council authorized to direct and assist in the preparation and updating of the City's historic preservation plan; to create and review design guidelines for historic districts and cultural properties; to review and render decisions upon applications relating to historic and cultural properties; and to advise City Staff in initiating and implementing relevant preservation planning programs.

**~~163.~~167.Historic Preservation Design Guidelines**

The written standards adopted by the City intended to provide technical advice and guidance to the Historic Preservation Committee and City Staff to evaluate applications to preserve the historic, cultural, and architectural character of an area or of a building, object, site, or structure.

**~~164.~~168.Historic Preservation Fund**

A federally supported assistance program managed by the National Park Service to assist State, Tribal, and local historic preservation offices with a variety of historic preservation and community projects focused on heritage preservation.

**~~165.~~169.Historic Preservation Overlay Zone**

An overlay zoning district corresponding to the Historic District Designation that protects and preserves individual structures and neighborhoods composed of architecturally and historically significant buildings; this zoning district shall be in addition to any other zoning district in place, and may be applied to buildings, structures, objects, sites, and districts.

**~~166.~~170.Historic Preservation Program**

The City's policy initiative under the direction of the City Council to encourage and uphold the Declaration of Policy and Intent in **Chapter 35. Historic Preservation**.

**~~167.~~171.Historic Significance**

"Historic Significance" means:

(1) The attributes or characteristics of a district, site, or structure that possess integrity of location, design, setting, materials, workmanship, feeling, and association;

(2) A district, site, or structure that is associated with events that have made a contribution to the broad patterns of our history;

(3) A district, site, or structure that is associated with the lives of persons significant in the past;

(4) A district, site, or structure that embodies the distinctive characteristics of a type, period, or method of construction;

(5) A district, site, or structure that represents a significant and distinguishable entity whose components may lack individual distinction; or

(6) A district, site, or structure that has yielded, or may be likely to yield, information important in prehistory or history.

**~~168.~~172.Historic Site**

The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historical, cultural, and/or archeological value regardless of the value of any existing structure.

**~~169.~~173.Historic Site Survey**

A systematic gathering of information related to the architectural, historic, scenic, and/or archaeological significance of buildings, structures, and/or objects within a specified geographic area through an assessment of field and archival documentation for the purpose of identifying properties that may be designated as cultural properties or historic districts.

**~~170.~~174.Historic Structure**

Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs that have been approved by the Secretary of Interior; or

(4) Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior, or

(b) Directly by the Secretary of the Interior in states without approved programs.

**~~171.~~175.Historical Survey (Intensive)**

A systematic, detailed examination of an area designed to gather information about historic properties sufficient to evaluate them in accordance with criteria of significance within specific historic contexts.

**~~172.~~176.Historical Survey (Reconnaissance)**

An examination of all or part of an area accomplished in sufficient detail to make generalizations about the types and distributions of historic properties that may be present.

**~~173.~~177.Historical Rehabilitation**

The act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features that convey its historical, cultural, or architectural values and characteristics.

**~~174.~~178.Historical Restoration**

The act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period.

**~~175.~~179.Illuminated Sign**

Any sign lighted internally, externally, or by lights directed towards the sign by any light source.

**~~176.~~180.Impervious Cover**

Those surfaces that do not effectively allow rainfall infiltration. (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

**~~177.~~181.Improvements**

Any building, structure, work of art, parking facility, fence, gate, wall, or other object constituting a physical addition to real property, or any part of such addition, including infrastructure such as streets, curbs, gutters, sidewalks, fire hydrants, storm drainage facilities, bike paths, trails, and water, sewer, and gas systems or parts thereof.

**182. Inactive Disturbed Area**

Any disturbed surface area on which active operations have been suspended.

**~~178.~~183.Incandescent Lamp**

A lamp that produces light via an electrically heated metallic filament.

**~~179.~~184.Infill**

Any vacant or underutilized tract, lot, or parcel of real property, including those parcels currently used for agricultural purposes, that falls within the infill boundary established by the Infill Policy Plan.

**~~180.~~185.Infill Development**

For the purposes of **Chapter 35. Historic Preservation**, the utilization of or the construction upon vacant or underused parcels of land within historic districts or adjacent to individual or clusters of cultural properties whereby new construction or any alterations to the site are undertaken in accordance with design guidelines to ensure compatibility with neighboring structures which regard to height, setbacks, landscaping, aesthetics, mass, and materials.

**~~181.~~186.Infiltration**

The process by which water on the ground surface enters the soil.

~~182.~~187. **Infiltration Facility**

Any structure or device designed to facilitate infiltration of retained water to the subsurface. These facilities may be above grade or below grade.

~~183.~~188. **Initial Lumens**

A lamp's light output, in lumens, at initial installation. The manufacturer usually lists initial lumens. For example, a 100-watt incandescent lamp emits approximately 1,800 lumens.

~~184.~~189. **International Building Code (IBC)**

The model building code developed by the International Code Council (ICC). This code has been adopted by the City for construction within the City, exempting one- and two-family dwellings.

~~185.~~190. **International Residential Code (IRC)**

A comprehensive, stand-alone residential code that contains minimum regulations for one- and two-family dwellings and townhouses up to three stories. It brings together all building, plumbing, mechanical, fuel gas, energy, and electrical provisions for one- and two-family residences.

~~186.~~191. **Intersection**

A point where two or more streets intersect.

~~187.~~192. **Irrigation System**

Consists of an underground system, automatic or manual, that includes a reduced principal backflow preventor, pipes, valves, and heads, and that shall be of an adequate size to properly irrigate the proposed planting.

~~188.~~193. **Institute of Transportation Engineers (ITE)**

~~Institute of Transportation Engineers.~~ The Institute of Transportation Engineers (ITE) is an international educational and scientific association of transportation professionals who are responsible for meeting mobility and safety needs.

## D. Terms Defined: L-O

~~189.~~194. **Lamp**

A generic term for a source of optical radiation (i.e., "light"), often called a "bulb" or "tube." Examples include incandescent, fluorescent, high-intensity discharge (HID) lamps, and low-pressure sodium (LPS) lamps, as well as light-emitting diode (LED) modules and arrays.

~~190.~~195. **Land Development**

The performance of any building or mining operation, the making of any material change in the use or appearance of any structure or land, the installation of public artwork, the division of land into two or more parcels, and the creation or termination of access right.

196. **Land Stripping/Activity**

Removal of all or any portion of existing vegetation, or natural soil surfacing, from parcels of land by various means.

~~191.~~197. **Landowner**

The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

~~192.~~198. **Landscape Lighting**

Lighting designed specifically for illuminating exterior natural features.

~~193.~~199. **Landscaping**

A combination of trees, shrubs, perennials, groundcovers, and artifacts, arranged in such a manner as to effect a design that follows the principles of **Sec. 38-7. Landscaping**. For approved types of landscaping and planting, see the Approved Plant List included in the Technical Manual.

~~194.~~200. Las Cruces Municipal Code (**LCMC**)

~~Abbreviation for the Las Cruces Municipal Code.~~

~~195.~~201. **Levee**

A levee is a long ridge of sand, silt, and/or clay built up by a river along its banks, especially during floods. It can also be an artificial embankment built to protect adjoining land from inundation. Levees can be naturally occurring or artificially constructed. They are used to prevent rivers from flooding cities in a storm surge and to increase available land for habitation or agriculture.

~~196.~~202. **Level of Service (LOS)**

A measure used by traffic engineers to determine the effectiveness of operation of elements of transportation infrastructure ranging from LOS A (highest) to LOS F (lowest).

~~197.~~203. **Light Pollution**

Any adverse effect of artificial light including, but not limited to, glare, light trespass, skyglow, energy waste, compromised safety or security, and impacts on the nocturnal environment.

~~198.~~204. **Light Trespass**

Light that falls beyond the ~~property it~~property is intended to illuminate.

~~199.~~205. **Lighting System**

On a site, all exterior electric lighting and controls.

~~200.~~206. **Lighting Zone**

An overlay zoning system establishing legal limits for lighting for particular parcels, areas, or districts in a community. See **Sec. 38-9.E. Lighting Zones**.

~~201.~~207. **Liner Building**

A building specifically designed to mask a parking lot or a parking structure from a public frontage.

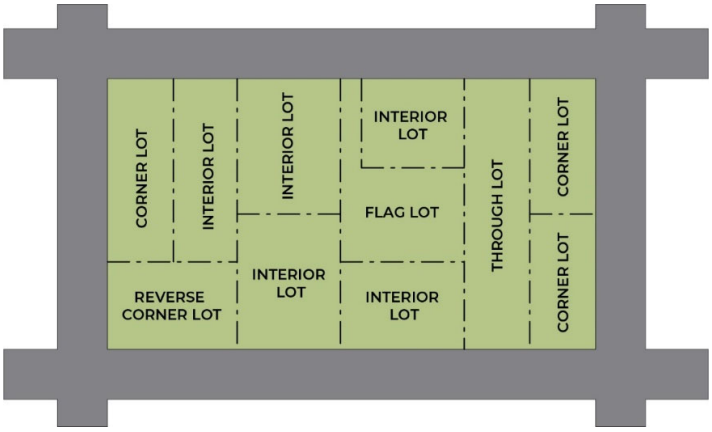
~~202.~~208. **Local Street**

Local streets provide neighborhood traffic circulation and property access. Local streets are the majority of streets in a roadway network; however, they carry the least amount of traffic.

**~~203.~~209.Lot**

A portion of a legally platted subdivision that is shown as a lot, tract, or parcel of land and held in separate ownership, as shown on the records of the county assessor. A legal lot is a parcel that has been divided in accordance with present or past zoning and subdivision requirements.

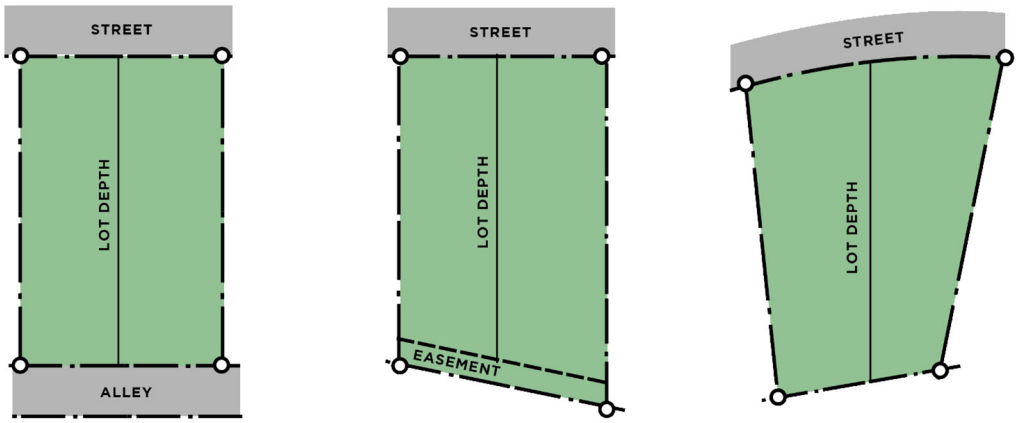
**Figure 34-5-1. Lot Types**



**~~204.~~210.Lot Depth**

The mean horizontal distance between the front and rear lot lines.

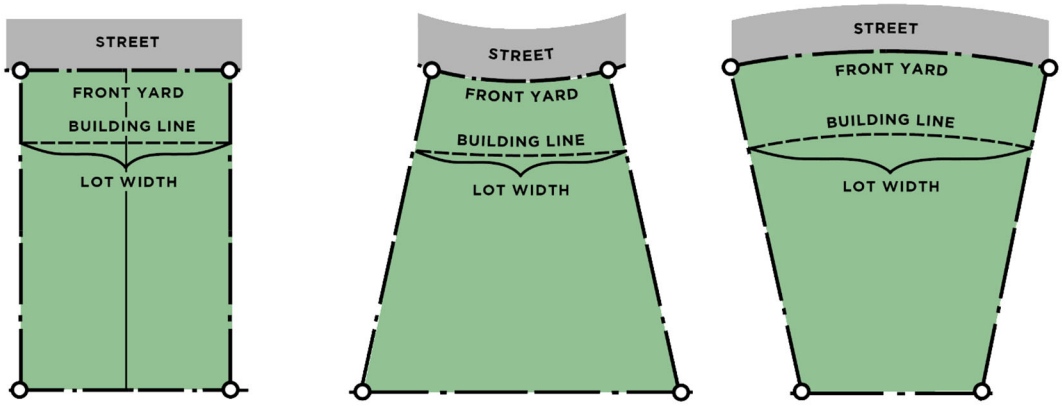
**Figure 34-5-2. Lot Depth Measurement Examples**




**~~205.~~211.Lot Width**

The width of a lot at the designated front property line.

**Figure 34-5-3. Lot Width Measurement Examples**




**~~206.~~212.Lot, Corner**

A lot abutting upon two or more streets or rights-of-way at their intersection. See **Sec. 36-4.A.4 Lot Requirements**.

**~~207.~~213.Lot, Double Frontage**

An interior lot fronting on two streets. One frontage shall be designated as the primary front yard. See **Sec. 36-4.A.4 Lot Requirements**.

~~208.~~214.**Lot, Flag**

A lot, parcel, or tract of land that includes a private accessway (the "flagpole" portion of the lot) extending to a public right-of-way to provide access to the rest of the lot (the "flag" portion of the lot). The private accessway has less frontage on a public right-of-way than the normally approved minimum lot width. See **Sec. 36-4.A.4. Lot Requirements**.

~~209.~~215.**Lot, Interior**

A lot other than a corner lot. See **Sec. 36-4.A.4 Lot Requirements**.

~~210.~~216.**Lowest Floor**

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

~~211.~~217.**Lumen**

The unit of measure used to quantify the amount of light produced by a lamp or emitted from a luminaire (as distinct from "watt", a measure of power consumption).

~~212.~~218.**Luminaire**

The complete lighting unit (fixture), consisting of a lamp, or lamps and ballast(s) (when applicable), together with the parts designed to distribute the light (reflector, lens, diffuser), to position and protect the lamps, and to connect the lamps to the power supply.

~~213.~~219.**Luminaire Lumens**

The cumulative total of initial lumens emitted by all lamps contained within a single luminaire. For luminaires with relative photometry per Illuminating Engineering Society (IES), it is calculated as the sum of the initial lamp lumens for all lamps within an individual luminaire, multiplied by the luminaire efficiency. If the efficiency is not known for a residential luminaire, assume 70 percent. For luminaires with absolute photometry per Illuminating Engineering Society (IES) LM-79, it is the total luminaire lumens. The lumen rating of a luminaire assumes the lamp or luminaire is new and has not depreciated in light output.

~~214.~~220.**Luminance**

A measure of the brightness of a surface which is emitting light. The unit of measurement most commonly used is candelas per square meter, often referred to as nits in the U.S. (one nit = one cd/m 2).

~~215.~~221.**Main Dwelling**

The primary dwelling on a property zoned for residential use.

**222. Maintenance**

The checking, repairing, and replacement of various dust control measures to insure their continued workability.

~~216.~~223.**Maintenance Agreement**

A legally recorded document that acts as a property deed restriction and provides for long-term maintenance of stormwater management practices and drainage infrastructure.

**~~217.~~224.Manual On Uniform Traffic Control Devices (MUTCD)**

A document issued by the Federal Highway Administration (FHWA) of the United States Department of Transportation (USDOT) to specify the standards by which traffic signs, road surface markings, and signals are designed, installed, and used.

**~~218.~~225.Manufactured Home or Manufactured Home Park**

See **Sec. 36-3.B. Use Classifications and Use-Based Standards**.

**~~219.~~226.Marquee Sign**

A sign attached to, mounted on, or painted on a marquee. See #42 Canopy or Marquee.

**~~220.~~227.Master Development Plan**

The graphic depiction of a phased or other larger development and associated materials intended to allow for high-level review of a proposed development. The Master Development Plan precedes a Preliminary Plat. See **Sec. 37-3.A. Master Development Plan** for more information.

**~~221.~~228.Mean Sea Level**

For purposes of the National Flood Insurance Program, North American Vertical Datum of 1988 (NAVD 1988) or other datum, to which base flood elevations shown on the City of Las Cruces's Flood Insurance Rate Map are referenced.

**~~222.~~229.Mechanically Stabilized Earth (MSE) Retaining Walls**

A composite structure consisting of alternating layers of compacted backfill and soil reinforcement elements, fixed to a wall facing. The stability of the wall system is derived from the interaction between the backfill and soil reinforcements, involving friction and tension. The wall facing is relatively thin, with the primary function of preventing erosion of the structural backfill.

**~~223.~~230.Minor Arterial**

Minor arterials provide high levels of mobility with limited or restricted access to abutting properties. Because mobility is the primary function of arterials, access control is highly desirable. Consolidated driveways and access between parking lots/parcels shall be required to reduce frequency of decelerating/accelerating vehicles, reduce conflict points, and maintain efficient traffic, pedestrian, bicycle, and transit flow.

**~~224.~~231.Mobile Vendor**

A vehicle-mounted establishment that offers food sales (e.g., food truck restaurant), retail sales (e.g., pop-up boutique), or commercial services (e.g., mobile pet grooming) from inside the vehicle.

**~~225.~~232.Modular Building**

A standardized factory-fabricated transportable building module not having a chassis or wheels of its own, designed and constructed in accordance with all applicable local building codes and intended to be placed on a permanent foundation, meeting all local zoning codes and to be used by itself or incorporated with similar units, manufactured housing, mobile homes, or site-built buildings at a building site. A modular building can be used for residential or nonresidential uses when located in appropriate zoning districts and must meet the appropriate building standards for a traditionally-constructed building.

**~~226.~~233.Mounting Height**

The height of the photometric center of a luminaire above grade level.

~~227.~~234.**Multi-Use Path**

A multi-use trail or path at least 10 feet in width that is physically separated from motorized vehicular traffic by a parkway or open space and usable by pedestrians, bicyclists, wheelchair users, and other non-vehicular users. See **Sec. 38-2.M. Sidewalks and Multi-Use Paths**.

~~228.~~235.**Municipal Separate Storm Sewer System (MS4)**

The system of conveyances (including roads with drainage systems, municipal streets, flood control dams, retention and detention basins, grate and/or curb inlets, curbs, gutters, ditches, man-made channels, arroyos, agriculture drains, storm drains or designated flow paths) owned, operated or controlled by the city and designed or used for collecting or conveying stormwater.

~~229.~~236.**National Historic Preservation Act (NHPA)**

The National Historic Preservation Act, 54 U.S.C. 300101 et seq., was enacted "to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes."

~~230.~~237.**National Register Criteria for Evaluation**

The criteria listed in the Code of Federal Regulations, Title 36, Part 60 (36 CFR 60) used to evaluate districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

(1) That are associated with events that have made a significant contribution to the broad patterns of American history; or

(2) That are associated with the lives of persons significant in American history; or

(3) That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

(4) That have yielded, or may be likely to yield, information important in prehistory or history.

~~231.~~238.**National Register of Historic Places**

The official list of the nation's places worthy of preservation; established under the National Historic Preservation Act of 1966, the register is administered by the National Park Service under the auspices of the Department of the Interior.

239. **Natural Cover**

Any vegetation, or natural ground surface, which exists on the property, prior to any construction activity. This includes areas which have been previously restored to undisturbed conditions.

~~232.~~240.**New Construction**

For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the City of Las Cruces and includes any subsequent improvements to such structures. (See "Start of Construction".)

~~233.~~241.**New Mexico Historic Preservation Division (NMHPD)**

A division within the Department of Cultural Affairs in the State of New Mexico authorized to identify and protect New Mexico's cultural resources, including its archaeological sites, architectural and engineering achievements, cultural landscapes, and diverse heritage.

~~234.~~242.**No Disturbance Zone**

Part of the designed foundation zone downslope of a retaining wall foundation. This zone develops the passive resistance to prevent the horizontal forces from the retained fill from moving the wall. Typically, this zone is a minimum width equivalent to the depth of the retained soil.

~~235.~~243.**Nonconforming**

See **Sec. 36-5.G. Nonconformities**.

~~236.~~244.**Nonconforming Sign**

Any sign legally erected and permitted in compliance with codes at the time it was erected and permitted, but which does not conform to current codes. See **Sec. 38-10.L. Nonconforming Signs**.

~~237.~~245.**Noncontributing Property**

A building, object, site, or structure in a historic district that does not possess individual architectural, historical, or structural significance or integrity within the context of the historic district or cluster of cultural properties and as determined by SHPO.

~~238.~~246.**Nonpoint Source**

Any source of any discharge of a pollutant that does not originate from a single source or point.

~~239.~~247.**Notice of Intent (NOI)**

The document that must be filed with the U.S. Environmental Protection Agency as notice to the NPDES permitting authority of the operator's intent to be covered under either the industrial general permit or the construction general permit.

~~240.~~248.**Notice of Termination (NOT)**

The document that must be filed with the U.S. Environmental Protection Agency when a facility is ready to terminate its NOI.

~~241.~~249.**NPDES**

The Federal National Pollutant Discharge Elimination System. This national law is the basis for the City Stormwater Management Plan (SWMP).

~~242.~~250.**NPDES Permit**

A permit issued by U.S. Environmental Protection Agency (or by the state under authority delegated pursuant to 33 USCS Section 1342 (b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

~~243.~~251.Natural Resources Conservation Service (**NRCS**)

~~Natural Resources Conservation Service (~~NRCS~~)~~, formerly known as the Soil Conservation Service (SCS), is an agency of the United States Department of Agriculture (USDA) that provides technical assistance to agriculture and communities.

**~~244.~~252.Nuisance**

See Chapter 18 of the Las Cruces Municipal Code.

**~~245.~~253.Official Submittal Date**

The date on which the City considers an application to be completed and officially submitted in accordance with the Development Schedule.

**~~246.~~254.Open Space**

That area for active or passive recreation, natural preservation. Open space is generally undeveloped, but may include accessory uses such as picnic pavilions, restrooms, or parking areas.

**~~247.~~255.Ordinary Repairs and Maintenance**

Any work done on or replacement of any part of a building or structure for which a permit issued by the Building Official is not required. The purpose and effect of such work or replacement is generally to correct any deterioration or decay of or damage to such building or structure or any part thereof and to restore the same, as nearly as may be practicable, to its condition prior to the occurrence of such deterioration, decay, or damage.

**~~248.~~256.Outdoor Lighting**

Lighting located exterior to a structure or that illuminates areas exterior to a structure.

**~~249.~~257.Outdoor Luminaire**

Any lighting device located exterior to a structure or that illuminates areas exterior to a structure, whether permanently or temporarily installed. This includes, but is not limited to:

(1) Searchlight

(2) Spotlight

(3) Floodlight

(4) Security lighting

(5) Sign and architectural lighting

(6) Lighting for parks, parking lots, roadways

(7) Athletic facility lighting

(8) Building overhand and open canopy lighting

(9) Product display area lighting

(10) Landscape lighting

(11) Signs or billboards, whether on-premises or off-premises, including LED, plasma, and similar light sources

**~~250.~~258.Outlot**

A parcel of ground or tract of land within a platted subdivision to be used for purposes other than residential. An example of an outlot is a tract of land designated for open space or a retention pond.

**~~251.~~259.Owner**

The person or entity who owns a property, use, facility, or operation or their designated representative.

**~~252.~~260.Owner Consent**

The act or result of reaching consensus and agreement, through reason and deliberation, by the owner(s) of real estate when cultural property designation is proposed at the suggestion of another party.

**~~253.~~261.Owner Objection (Cultural Property Designation)**

The right of all owners of record to object to a proposed cultural property designation of its buildings, structures, objects, or other improvements and the parcel of land to which those improvements are firmly attached.

**~~254.~~262.Owner Objection (Historic District Designation)**

The right of an owner (or owners) of record to object to the inclusion of its real property within a proposed historic district, potentially resulting in a modification to the district's proposed boundaries.

**~~255.~~263.Owner of Record**

The person, corporation, or other legal entity identified as the property owner in the official records of the Doña Ana County Assessor's Office.

## E. Terms Defined: P-S

**264. Palliative**

Any agent used to lessen or reduce dust emissions.

**~~256.~~265. Patio Home**

A type of single-family residential development in which the main structure is placed directly along a side property line (i.e., the "zero-setback side"), while the other side observes the typical setback requirement. See **Sec. 36-4.B.4. Dimensional Standards for Patio Homes and Townhouses**.

**~~257.~~266.Park, Neighborhood**

Accessible, family-friendly destinations within the City that provide active and passive recreation opportunities within walking distance (1/4 mile walk-shed) of neighborhoods. Common amenities may include playground equipment, picnic areas, park benches, walking trails, open play areas, and occasionally, sports courts or athletic fields.

**~~258.~~267.Parking Lot**

An off-street, ground-level area improved for the temporary storage of motor vehicles.

**~~259.~~268.Parkway**

That area of a public street that is between the curb and sidewalk or between the sidewalk and the property line, which is used for planting and streetscaping purposes.

**~~260.~~269.Partially Shielded Luminaire**

A luminaire with an opaque top and translucent or perforated sides, designed to emit most light downward.

**~~261.~~270.Particulate Matter**

A mixture of solid particles and liquid droplets found in the air, including, but not limited to, dust, dirt, soot, and smoke.

~~262.~~271.**Peak Hour**

The highest consecutive four, 15-minute periods where traffic flow is heaviest on a particular road segment or intersection.

~~263.~~272.**Pennant**

A display made of a lightweight material that tapers to a point, having no logo or advertising message printed on it. See **Sec. 38-10.D. Prohibited Signs**.

~~264.~~273.**Performance Security**

A surety bond or other form of security made out to the City in an amount equal to the estimated full cost of the improvements, said cost being estimated by the Public Works Director, to ensure the City that the said improvements will be constructed in accordance with these regulations. See **Sec. 37-4.C. Installation and Acceptance of Public Improvements**.

~~265.~~274.**Period of Significance**

The finite span of time during which important events and activities associated with a specific cultural property or group of cultural properties occurred.

~~266.~~275.**Person**

Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities.

~~267.~~276.**Phasing**

Clearing a parcel of land in distinct phases, with the stabilization of each phase before the clearing of the next.

~~268.~~277.**Planned Unit Development (PUD)**

A development process whereby the intent is to promote design and development standard flexibility in cases where strict application of the zoning ordinance would inhibit the overall goals and objectives of the City. Also referred to as a "PUD". See **Sec. 36-5.D. Planned Unit Developments (PUDs)**.

~~269.~~278.**Planning & Zoning Commission**

The officially appointed Planning & Zoning Commission of the City. See **Sec. 34-2.B. Planning & Zoning Commission**.

~~270.~~279.**Planning-Related Issues**

Issues related to but not limited to lot configuration, street network, right-of-way requirements, land use, density, phasing of development, suitability of location, and other issues determined by the Community Development Director to be planning-related.

~~271.~~280.**Plat**

A map, chart, survey, or plan, certified by a land surveyor, that contains a description of subdivided plat or resubdivided replat land with ties to permanent survey monuments.

~~272.~~281.**PM10 Emissions**

~~Particulate matter, both filterable and condensable, with an aerodynamic diameter less than or equal to a nominal ten micrometers.~~ Finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal ten micrometers emitted to the ambient air.

**~~273.~~282.Point Source**

Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leach ate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

**~~274.~~283.Pollutant**

Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. The term "pollutant" does not include tail water or runoff water from irrigation or rainwater runoff from cultivated or uncultivated range land, pasture land, and farm land.

**~~275.~~284.Porch**

A roofed patio entrance or exit area, open on at least one side.

**~~276.~~285.Portable Sign**

A freestanding sign not permanently affixed, anchored, or secured to the ground or a building, which may be rolled or moved about.

**~~277.~~286.Preliminary Plat**

The graphic expression of the proposed plan for subdividing, improving, and developing a tract shown by superimposing a scale drawing of the proposed land division on a topographic map and showing in plan view existing and proposed drainage features and facilities, street layout, and direction of curb flow, and other pertinent features with notations sufficient to substantially identify the general scope and detail of the proposed development. See **Sec. 37-3.B. Preliminary Plat**.

**~~278.~~287.Preservation**

The act or process of applying measures necessary to sustain the existing form, integrity, and materials of a cultural property, including any buildings, objects, and structures on the site.

**~~279.~~288.Principal Arterial**

Principal arterials provide high levels of mobility with limited or restricted access to abutting properties. Because mobility is the primary function of arterials, access control is highly desirable. Consolidated driveways and access between parking lots/parcels shall be required to reduce the frequency of decelerating/accelerating vehicles, reduce conflict points, and maintain efficient traffic, pedestrian, bicycle, and transit flow.

**~~280.~~289.Professional Engineer**

A person licensed by the New Mexico State Board of Licensure who is legally allowed to represent themself to the public as an engineer and is allowed to perform engineering design or construction of private and public works.

**~~281.~~290.Progress Toward Completion**

Includes any one or more of the following:

(1) An application for a Final Plat or plan for development is submitted;

(2) A good-faith attempt is made to file with the City or County an application for a permit necessary to begin or continue towards completion of the project;

(3) Costs have been incurred for developing the project, including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent of the most recent appraised market value of the real property on which the project is located;

(4) Fiscal security is posted with a regulatory agency to ensure the performance of an obligation required by the regulatory agency; or

(5) Utility connection fees for the project have been paid to a regulatory agency.

~~282.~~291. **Prohibited Sign**

Any sign not expressly permitted or any sign that is specifically prohibited in **Sec. 38-10.D. Prohibited Signs**.

~~283.~~292. **Protected Tree**

Any tree that is not exempted by **Sec. 38-6.C. Exempted Trees**. See **Sec. 38-6. Tree Preservation**.

~~284.~~293. **Property Line**

The official boundary of a parcel, lot, or tract of land as designated by either a metes and bounds description or subdivision plat filed in the records and maps of the County Clerk's Office.

~~285.~~294. **Public Area**

Any bus bench, bus shelter, landscaped median, trail, park, or arroyo duly recognized by the City.

~~286.~~295. **Public Works Director**

The Director of the City's Public Works Department (or successor department charged with overseeing infrastructure planning, development, and maintenance in the City), as appointed by the City Manager. This term also includes the Director's designee(s).

~~287. PUD~~

~~See #268 Planned Unit Development.~~

~~288.~~296. **Pull Box**

A nonmetallic box of a size specified, installed underground at surface level, and used as a junction point for connecting conduit, and as a pull point for electrical circuits.

~~289.~~297. **Queue**

A line of waiting vehicles.

~~290.~~298. **Reasonably Available Control Measures (RACM)**

Techniques used to limit the emission and/or airborne transport of fugitive dust from its original site to accomplish satisfactory results for temporary and/or extended suppression of dust and PM10 emission(s).

~~291.~~299. **Recharge**

The replenishment of underground water reserves.

~~292.~~300. **Reconstruction**

The act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

**~~293.~~301.Record Drawings**

A group of drawings or plans that depicts the final configuration of the installed or constructed improvements of a development, improvements that have been verified by the contractor as their installation or construction occurs during development. The Record Drawings shall reflect the Construction Plans (or working drawings) used, corrected, and/or clarified in the field.

**~~294.~~302.Recreational Vehicle**

A vehicle that is:

(1) Built on a single chassis;

(2) 400 square feet or less when measured at the largest horizontal projections;

(3) Designed to be self-propelled or permanently towable by a light-duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

See #67 Recreational Vehicle Park in **Sec. 36-3.B. Use Classifications and Use-Based Standards**.

**~~295.~~303.Register of Cultural Properties**

The list maintained by City Staff for the City enumerating the physical addresses or locations of designated historically, architecturally, archaeologically, and culturally significant local buildings, structures, objects, and sites.

**~~296.~~304.Registered Landscape Architect**

An individual registered under the Landscape Architects Practice Act to practice landscape architecture in the state. Nothing contained in this definition shall be construed as authorizing a landscape architect to engage in the practice of architecture, engineering, or land surveying as defined by New Mexico Administrative Code, Title 16, Chapter 44, Landscape Architects.

**~~297.~~305.Relative Photometry**

Photometric measurements made of the lamp plus luminaire, and adjusted to allow for light loss due to reflection or absorption within the luminaire.

**~~298.~~306.Release**

Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the MS4 or the waters of the United States or onto the ground in such a manner that a pollutant may be discharged into the MS4.

**~~299.~~307.Relocation**

Any repositioning of a building, structure, or object on its existing site, or the act of moving a building, structure, or object to another site.

**~~300.~~308.Remodel**

The process of altering existing structural components or architectural features and/or finishes of a resource or property; to reconfigure an existing resource or property in such a manner as to remove, cover, replace, or rearrange elements of defining character.

**~~301.~~309.Repair**

Any minor construction undertaken to remedy an existing condition that has deteriorated but otherwise is not defined as construction, alteration, demolition, remodeling, removal, or relocation.

~~302.~~310.**Replat**

A replat or resubdivision that makes changes to a previously approved Final Plat. See **Sec. 37-3.D.2. Replats**.

~~303.~~311.**Residential**

Residential dwellings as defined in the International Residential Code as adopted by the City of Las Cruces.

~~304.~~312.**Retained Fill Depth (Grade Differential)**

The fill depth retained by a retaining wall as measured by the soil surface elevation difference immediately adjacent to both sides of the wall.

~~305.~~313.**Retaining Wall**

An engineered ~~designed~~ wall constructed of but not limited to brick, block, rock, concrete, MSE, or reinforced concrete to retain over 24 inches of soil or surcharge~~. Retaining walls must be designed to resist the sum of all specific forces with a predetermined safety factor~~.

~~306.~~314.**Right-of-Way**

Any land area deeded, reserved, or otherwise acquired by the city, the county, or the state for public use (e.g., roads, streets).

~~307.~~315.**Roadway**

That portion of the street available for vehicular traffic.

~~308.~~316.**Roof**

An overhead structure used for protection or shielding from the sun, rain, or other elements of weather.

~~309.~~317.**Runoff Computation**

Runoff computations for both the ten percent probability and one percent probability storm event shall be submitted with the proposed storm drainage plan. The most recent official federal (ACOE, FEMA, FIS, USDA, USGS, etc.) data and references must be used when analyzing flow that crosses any site.

~~310.~~318.**Safety Factor**

A reasonable engineering design factor increasing a force or load to cover unknown factors/forces that may impact it.

~~311.~~319.**Sand**

A granular material composed of finely divided mineral particles. Sand is defined by grain size; sand grains are smaller than gravel and coarser than silt.

~~312.~~320.**Screening**

The use of a wall, fence, thick shrubbery, or similar materials to minimize the potentially adverse impact of one land use on another. See **Sec. 38-8. Fencing, Screening, and Buffering**.

~~313.~~321.**Seasonal Lighting**

Temporary lighting installed and operated in connection with holidays or traditions.

~~314.~~322. **Service Connection**

The service connection is the terminal end of the municipal water supply system where the customer's water piping system is connected. The service connection for metered water services is attached at the customer's (downstream) side of the water meter. The service connection for the use of a fire hydrant and all other temporary or emergency water services is located at the point of entry to the municipal water supply system.

~~315.~~323. **Setback**

The minimum distance by which any building or structure must be separated from a street right-of-way or lot line.

~~316.~~324. **Shared Use Path**

Shared use paths, also commonly referred to as trails or greenways, are paths designed for and generally used by bicyclists, pedestrians, and other non-motorized users.

~~317.~~325. **Shielded Directional Luminaire**

A luminaire that includes an adjustable mounting device allowing aiming in any direction and contains a shield, louver, or baffle to reduce direct view of the lamp.

~~318.~~326. **Sidewalk**

A pedestrian walkway with permanently improved surfacing. See **Sec. 38-2.M. Sidewalks and Multi-Use Paths**.

~~319.~~327. **Sign**

Any structure or object or part thereof used to advertise, identify, display, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination or projected images.

~~320.~~328. **Significant Cultural Property**

Buildings, objects, sites, or structures of the highest and most unique historical, cultural, architectural, or archaeological importance whose demolition, destruction, or otherwise loss or adverse damage would constitute an irreplaceable loss to a community. Such properties should be identified by the State Historic Preservation Office or registry.

~~321.~~329. **Silt**

A granular material of a size between sand and clay and composed primarily of broken grains of quartz. Silt may occur as a soil or as sediment mixed in suspension with water.

330. **Silt Fence**

A temporary sediment control device consisting of a synthetic filter fabric stretched across and attached to supporting posts and entrenched along its bottom - typically designed for water erosion control.

~~322.~~331. **Site**

The land or water area where any facility or activity is physically located or conducted, including land used in connection with the facility or activity, such as borrow pits and storage areas, and may include land adjacent to the site when utilized by the operator.

**~~323.~~332.Site-Built**

A structure that is constructed from materials brought to the site and modified for assembly. Some materials may be assembled off-site but must be assembled on-site to make a complete structure. This does not include a manufactured home, mobile home, or recreational vehicle.

**~~324.~~333.Site Plan**

A required plan intended to promote the efficient use of land, safe vehicular and pedestrian circulation, appropriate provision of open space, parking, screening, lighting, and other developmental elements. See **Sec. 36-5.B. Site Plans**.

**~~325.~~334.Sketch Plan**

A high-level conceptual sketch used to facilitate discussion during a Pre-Application Meeting. See **Sec. 34-3.B.3. Sketch Plan**.

**~~326.~~335.Slope**

The steepness or degree of inclination of a certain area of land. It can be the steepness between two specific points in a given area, the average of the gradual change in steepness, or an erratic variation in the elevation of the ground.

**~~327.~~336.Slope Protection**

A stable surface added to a slope to provide erosion protection. Slope protection may include grouted rock, concrete facing, gabions, geotextiles, or vegetation.

**~~328.~~337.Solid Waste**

Any garbage, rubbish, refuse, or sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations, from community and institutional activities, and material from transportation-related activities.

Also, solid waste resulting from or incidental to municipal, community, commercial, institutional, or recreational activities, and includes garbage, rubbish, ashes, street cleanings, compost, yard waste, dead animals, abandoned automobiles, and other solid waste other than industrial waste.

**~~329.~~338.Special Use Permit (SUP)**

A Special Use Permit (SUP) is a type of zoning designation that allows certain uses in designated locations subject to additional review and possible conditions to protect public health, safety, and welfare. Uses that require an SUP are indicated as such in **Sec. 36-3.A.1. Permitted Use Chart**. See **Sec. 36-5.C. Special Use Permits (SUPs)**.

**~~330.~~339.Specification**

An explicit set of requirements to be satisfied by a material, product, or service.

**~~331.~~340.Spot Lamp**

A specific form of lamp designed to direct its output in a specific direction (a beam) with a reflector formed from the glass envelope of the lamp itself, and with a clear or nearly clear glass envelope. Such lamps are so designated by the manufacturers, and typically used in residential outdoor area lighting.

**~~332.~~341.Start of Construction**

For other than new construction or substantial improvements under the Coastal Barrier Resources Act (PL 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a portion of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

**~~333.~~342.State Historic Preservation Officer (SHPO)**

The director of the New Mexico Historic Preservation Division, appointed by the Governor, who manages the State's Historic Preservation Plan and coordinates historic preservation activities at all levels of government in the State and with individuals, private organizations, and traditional communities.

**~~334.~~343.State Register of Cultural Properties**

The official list of historic properties worthy of designation in New Mexico; authorized in 1969 and administered by the New Mexico Historic Preservation Division, the register is periodically updated by the Cultural Properties Review Committee.

**~~335.~~344.Stealth Tower**

A tower that is camouflaged to be unrecognizable as a telecommunications facility, including architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structures, antennas integrated into architectural elements such as church spires or window walls, and antenna structures designed to resemble light poles, flagpoles, or trees.

**~~336.~~345.Stop Work Order**

A written order issued by the Building Official to a property owner or the person performing the work to immediately cease all activity on any building, structure, object, or site.

**~~337.~~346.Stormwater**

Precipitation runoff, snow melt runoff, and surface runoff and drainage.

**~~338.~~347.Stormwater Discharge Associated with Industrial Activity**

The discharge from any conveyance that is used for collecting and conveying stormwater and which is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant that is within one of the categories of facilities listed in 40 CFR Section 122.26 (b) (14), and which is not excluded from the U.S. Environmental Protection Agency's definition of the same term.

**~~339.~~348.Stormwater Management**

The use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and peak flow discharge rates.

**~~340.~~349.Stormwater Pollution Prevention Plan (SWPPP)**

An engineered plan to combat potential pollutant sources at a construction site by presenting appropriate measures to prevent or control the pollution of stormwater runoff. It is based on the National Pollutant Discharge Elimination System (NPDES) laws and regulations. Minimum compliance with the SWPPP plan will identify and place best management practices (BMPs) and control measures that are locally available and have been proven successful in the area.

**~~341.~~350.Story**

The same as defined in Chapter 30 of the Las Cruces Municipal Code.

**~~342.~~351.Streamers**

A display made of light, flexible material, consisting of long, narrow, wavy strips. See **Sec. 38-10.D. Prohibited Signs**.

**~~343.~~352.Street**

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

**~~344.~~353.Street Light Circuits**

An underground facility consisting of street light foundations, 1-½ inch connecting conduit, pull boxes, stub-outs, and junction points for electrical service.

**~~345.~~354.Street Line**

The outermost boundary or property line of a street right-of-way that is the mutual property line of abutting properties.

**~~346.~~355.Street Trees**

Trees planted along streets for beautification and benefit of the general public. See **Sec. 38-7.D.1. Parkway & Street Trees**.

**~~347.~~356.Street, Private**

A private roadway that affords the traffic circulation within a development or parcel of land and gives access to uses and structures.

**~~348.~~357.Street, Public**

A public thoroughfare for the principal means of access to abutting property.

**~~349.~~358.Structural Integrity**

An unimpaired condition relating to the functional stability of major building components in relationship to their original or altered function; a measure of the quality of construction and the ability of the structure to function as designed or intended; and the quality or state of being complete or uncompromised.

**~~350.~~359.Structural Requirements**

The safety standards that apply to those signs governed by the requirements in the building code and other companion documents.

**~~351.~~360.Structure**

Any building ~~thing~~ constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground (e.g., buildings, parking areas, walks, ~~fences,~~ canopies, and signs).

**~~352.~~361.Subdivider**

An owner or an owner's agent who undertakes the subdivision of land as set forth in the respective regulations.

**~~353.~~362.Subdivision**

The division of land into two or more parts by platting or by metes and bounds description into tracts or lots for any purpose.

**~~354.~~363.Substantial Completion**

The stage in the progress of construction when the improvements are sufficiently complete to issue a Building Permit (but not a Certificate of Occupancy) prior to the filing of the Final Plat. Substantial Completion may only occur when there is only minor work remaining. See **Sec. 37-4.D. Substantial Completion**.

**~~355.~~364.Substantial Damage**

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**~~356.~~365.Substantial Improvement**

Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. (See #332 Start of Construction.) This includes structures that have incurred "substantial damage", regardless of the actual repair work performed (see #355 Substantial Damage). The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of federal, state, or local health, sanitary, or safety code specifications that have been identified by the Code Enforcement Officer and which are the minimum necessary conditions, or

(2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**~~357. SUP~~**

~~See #329 Special Use Permit.~~

**~~358.~~366.Survey**

A systematic gathering of information related to the architectural, historic, scenic, and/or archaeological significance of buildings, structures, objects, and/or landscape features within a specified geographic area through an assessment of field and archival documentation for the purpose of identifying properties that may be designated as cultural properties or historic districts.

**~~359.~~367.Surveyor**

A person who is engaged in the practice of surveying and is qualified to so practice as attested by their legal registration as a professional surveyor in the state.

## F. Terms Defined: T-Z

**~~360.~~368.Taper Length**

The measured length to transition from a travel lane into an adjacent auxiliary lane (i.e., left turn bay, deceleration lane, etc.).

~~361.~~369.**Technical Manual**

The technical manual(s) developed and maintained by the City containing detailed technical standards and requirements. See **Sec. 34-1.F. Technical Manual and Other Technical Resources**.

~~362.~~370.**Temporary Lighting**

Lighting installed and operated for periods not to exceed 60 days, completely removed and not operated again for at least 30 days.

~~363.~~371.**Temporary Sign**

A type of sign intended for a limited period of display. See **Sec. 38-10.G. Sign Types and Supplemental Standards**.

~~364.~~372.**Total Initial Lumens**

The sum of the individual initial lumens output for all the luminaires of an installation. For example, six luminaires with 10,000 initial lumens output per luminaire would equal 60,000 total initial lumens.

373. **Track-out Control**

A device to remove mud or soil from a vehicle before the vehicle enters a paved public road and prevent contamination into an adjacent MS4 city utility(s).

~~365.~~374.**Tract**

A portion of land with defined boundaries created by a deed or other legal instrument.

~~366.~~375.**Traditional Cultural Property**

A cultural property where associated cultural practices or beliefs of a living community occur that are both rooted in a community's history and important in maintaining the continuing identity of the community.

~~367.~~376.**Trail**

A way designed for and used by pedestrians and/or cyclists using nonmotorized bicycles for recreational or transportation purposes.

~~368.~~377.**Traffic Calming Device**

Any modification designed to reduce the speed of traffic on a particular street.

~~369.~~378.**Traffic Calming Study**

An appraisal of existing traffic conditions and the development of a plan for implementing one or more traffic calming devices in a residential neighborhood.

~~370.~~379.**Traffic Control Device**

A sign, signal, marking, or other device used to regulate, warn, or guide traffic placed on, over, or adjacent to a street, highway, pedestrian facility, or shared-use path by authority of a public agency having jurisdiction.

~~371.~~380.**Traffic Count**

A manual or automated count of the number of vehicles traversing a particular street in a given time period.

~~372.~~381.**Traffic Impact Analysis**

An analysis that assesses the effects of specific development activity on the existing and planned thoroughfare system of the City. Abbreviated “TIA”. See **Sec. 38-2.G. Traffic Impact Analysis**.

~~373.~~382. **Translucent**

A material allowing light to pass through but obscures or diffuses the image (not transparent or clear).

~~374.~~383. **Uncontaminated**

Not containing a harmful quantity of any pollutant.

~~375.~~384. **Undisturbed**

Land or property which is in its natural condition and has not been stripped or graded. An exception would be if the property has been revegetated and the soil and vegetative groundcover is now mature.

~~376.~~385. **Unpaved Road**

A road that is not paved with a formal hardened surfacing but instead has a running surface of either crushed gravel or native soil. Such roads are typically for low use and slow traffic. Their ability to produce dust from traffic is well known.

~~377.~~386. **Unshielded Luminaire**

A luminaire that does not meet the definition of "fully shielded" or "partially shielded."

~~378.~~387. **Uplight**

For or an exterior luminaire, flux radiated in the hemisphere at or above the horizontal plane.

~~379.~~388. **Usable Open Space**

Open space within a lot, tract, parcel, or development site, excluding areas devoted to roadways and parking.

~~380.~~389. **Utilities Director**

The Director of the City's Utilities Department, as appointed by the City Manager. This term also includes the Director's designee(s).

~~381.~~390. **Utility Easement**

A grant of a strip or area of land by the property owner, or general public, for the specific purpose of locating or maintaining utility systems.

391. **Vacant Lot**

A parcel of land which contains no buildings or structures of a temporary or permanent nature, excluding perimeter walls or fences.

~~382.~~392. **Vacation**

To void a portion of a previously filed subdivision plat application or to void the filed plat in its entirety.

~~383.~~393. **Vehicular Sign**

A sign attached to, mounted on, or otherwise affixed to any vehicle, whether motorized or drawn, that is placed, parked, or maintained at one particular location for the express purpose and intent of promotion or conveying an advertising message. This description includes but is not limited to mobile billboards and banner signage on parked vehicles. This description does not include bumper stickers, magnetic signage smaller than four square feet, painted messages, or decals.

**~~384.~~394.Violation**

The failure of a structure, site, site feature, or other element regulated by the Development Code to meet the required standards. See **Sec. 34-1.H. Violations and Enforcement**.

**395. Visible Emissions**

Any emission which contains particulate matter which are visually detectable without the aid of instruments.

**~~385.~~396.Wall**

An artificially constructed barrier of solid material such as brick, block, rock, concrete (or reinforced concrete), used to enclose or screen an area.

**~~386.~~397.Water Conservation**

The preservation, control, and management of water. See the City's Water Conservation Program for more information.

**~~387.~~398.Water in the State (or Water)**

Any groundwater, percolating or otherwise, lakes, ponds, impounding reservoirs, springs, rivers, canals, streams, inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state. This includes dry washes, gullies, arroyos, and other ephemeral streams.

**~~388.~~399.Water Quality Standard**

Provisions of the state, territorial, authorized tribal, or federal law approved by the U.S. Environmental Protection Agency that describe the desired condition of a water body, including groundwater, and the means by which that condition will be protected or achieved.

**~~389.~~400.Water Surface Elevation**

The height, in relation to the North American Vertical Datum (NAVD) of 1988 or (other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**~~390.~~401.Watercourse**

A permanent or intermittent stream or other body of water, either natural or human-made, which gathers or carries surface water.

**~~391.~~402.Waters of the United States**

All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide; all interstate waters, including interstate wetlands; all other waters the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce; all impoundments of waters otherwise defined as waters of the United States under this definition; all tributaries of waters identified in this definition; all wetlands adjacent to waters identified in this definition; and any waters within the federal definition of "waters of the United States," at 40 CFR Section 122.2, including the Rio Grande River, dry washes, arroyos, but not including any waste treatment systems, treatment ponds, or lagoons designed to meet the requirements of the federal Clean Water Act.

~~392.~~403. **Well-Drained Soil**

A mixture of sand and rock with only minor amounts of silt and no clay component. Well-drained soil allows water to drain at a moderate rate without water pooling.

~~393.~~404. **Wetland**

An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetland generally includes swamps, marshes, bogs, playas, and similar areas.

~~394.~~405. **Wind Erosion Control Plan (WECP)**

A document used to list control measures to be used for the activities being undertaken to prevent fugitive dust or windblown particulate matter and mitigate the escape of these materials beyond the property lines(s) of the originating site(s).

406. **Wind Fence**

A fence made of small, evenly spaced wooden slats (similar to a snow fence) or fabric. They are erected to reduce wind velocity and to trap blowing sand. They may be used as perimeter controls around open construction sites to keep sediments from being blown off-site. The spaces between the fence slats allow wind and sediment to pass through but reduce the wind's speed, allowing transported soil particles to deposit along the fence.

~~395.~~407. **Wind Speed**

The average wind velocity, regardless of direction, based on a 60-minute average from the nearest weather report or PM10 monitoring station, or by a portable wind instrument located at the site.

408. **Wind Speed Test**

A on-site test of the wind speed measured at zero to two feet above the ground surface. This test is taken and certified by a City of Las Cruces construction inspector or codes enforcement officer using a portable hand-held anemometer standing at a specific approved point within the development (+/- 2 feet).

~~396.~~409. **Yard**

The space on a lot unobstructed by buildings from the ground to the sky, including sidewalks, driveways, patios, and other ground-level surfaces.

~~397.~~410. **Yard, Required Front**

The required yard between the designated front property line and the front setback line.

~~398.~~411. **Yard, Required Rear**

The required yard between the designated rear property line and the rear setback line.

~~399.~~412. **Yard, Required Side**

The required yard between the designated side property line and the side, front, and rear setback lines.

~~400.~~413. **Zoning District**

Any zone of the City designated on the Zoning Map within which certain zoning and land use requirements are specified and are uniform. See **Sec. 36-2. Zoning Districts**.

**~~401.~~414.Zoning Map**

A map that graphically shows all zoning district boundaries and classifications within the City. The Zoning Map is maintained by the Community Development Department. May also be referred to as Zoning District Map, Official Zoning Map, or Zoning Atlas. See **Sec. 36-2.A.2. Zoning Map**.

**~~402.~~415.Zoning Variance**

A mechanism to provide relief from the requirements of **Chapter 36. Zoning Regulations** based on a hardship. See NMSA 3-21-8 and **Sec. 36-5.F. Zoning Variances**.

# Chapter 35. Historic Preservation

## Sec. 35-1. General Information

### A. Short Title

This chapter shall be known and may be cited as "The City of Las Cruces Historic Preservation District and Landmark Ordinance" and may be referred to as "the Historic Preservation Ordinance."

### B. Declaration of Policy and Intent

The City of Las Cruces ("City") declares as a matter of public policy that the protection, preservation, maintenance, care, and use of cultural properties is a public necessity conducive to the general welfare of the people and beneficial to the furtherance of the community's economic prosperity and quality of life. The purposes of this article include, but are not limited to:

1. The promotion, protection, and use of the City's historic building inventory for the education, pleasure, and welfare of residents and visitors;
2. The protection, enhancement, and perpetuation of cultural properties that represent or reflect distinctive and important aspects and eras of human habitation and activity in Las Cruces;
3. The evaluation, recognition, preservation, protection, enhancement, restoration, and promotion of architectural landmarks, cultural properties, and cultural landscapes significant to the City's, region's, state's, and nation's architectural, archaeological, cultural, social, economic, ethnic, and political history, and to develop, enhance, and protect appropriate settings for such places;
4. The enhancement and fostering of civic pride in the aesthetics and history of the built environment and in the accomplishments of earlier inhabitants in the area that became Las Cruces;
5. The integration of historic preservation planning into the City's Comprehensive Plan;
6. The stabilization and improvement of property values as a positive economic development objective that recognizes and protects the rights of owners of historic properties and owners of properties adjacent to landmarks and historic districts;
7. The strengthening of the City's economy through heritage and cultural tourism and real estate for the benefit of residents and tourists through promotion and use of historic buildings and cultural properties; and
8. The avoidance of the irreversible and irreplaceable loss through demolition or neglect of cultural properties that convey a sense of the City's heritage, cultural diversity, and history by encouraging the conservation, through sympathetic rehabilitation and reuse, of historically or architecturally significant properties.

### C. Authority and Jurisdiction

This chapter is created pursuant to the authority set forth in NMSA 1978, Sections 3-22-1 et seq. (as amended), the Historic District and Landmark Act, and NMSA 1978, Sections 18-6A-1 et seq. (as amended), the Cultural Properties Protection Act.

### D. Administration of the Historic Preservation Program

The Community Development Director is responsible for administering these regulations. Within this **Chapter 35. Historic Preservation**, this term may also include another historic preservation professional designated by the City Manager who meets the requirements of NMSA 4.10.10.12.

### E. Alterations or Demolition without a Certificate of Appropriateness

1. It is unlawful to construct, reconstruct, structurally alter, remodel, renovate, restore, demolish, or raze any cultural property in violation of this chapter.
2. In addition to any remedies, a person, corporation, or entity, including the City, is liable to the City if the person demolishes, or causes to be demolished, or otherwise adversely affects the structural, physical, or visual integrity of a cultural property without first obtaining a permit from the Community Development Department and a Certificate of Appropriateness as required in this chapter.
3. Such violations shall be subject to the provisions of **Sec. 34-1.H. Violations and Enforcement**.

### F. Appeals

1. A historic preservation decision by the Community Development Director may be appealed to the Historic Preservation Committee.
2. A historic preservation decision by the Historic Preservation Committee may be appealed to the Planning & Zoning Commission.

## Sec. 35-2. Historic Preservation Committee

### A. Historic Preservation Committee

The Historic Preservation Committee is established by Chapter 2 of the City's Code of Ordinances (Article IV, Division 3, Subdivision XVI).

### B. Duties and Responsibilities of the Historic Preservation Committee

The Committee shall exercise, but not be exclusively limited by, the following duties and responsibilities according to its bylaws:

1. Request input from the Community Development Director regarding surveys within the city limits of the City of Las Cruces to identify properties, neighborhoods, archaeological sites, and buildings for evaluation and potential designation as cultural resources.
2. Recommend to the Mayor and City Council properties to be designated and entered in the City, State, or Federal Register of Cultural Properties.
3. Review and render decisions on Certificates of Appropriateness during open, public meetings.
4. Recommend to the Mayor and City Council the adoption of design guidelines to ensure proper restoration and rehabilitation practices for historic building inventory; to ensure architectural and aesthetic compatibility within historic districts and in proximity to cultural properties; and to guide infill development to achieve comparable aesthetics and massing with existing, neighboring buildings, objects, structures, and sites.
5. Assist in the dissemination of information to the public concerning historic preservation and seek input from groups, individuals, and organizations on these matters.
6. Consider methods for encouraging and incentivizing historic preservation efforts and provide recommendations to these ends to the Mayor and City Council.
7. Advise the Mayor and City Council on any proposed public alterations that may impact the exterior appearance of cultural properties to avoid any potential adverse effects.
8. Consider alternative options and actions when reviewing applications seeking the demolition in part or in whole of designated cultural properties.

9. Advise the Mayor and City Council on the relative merits of proposals involving the use of public funds to restore, preserve, and protect cultural properties, and to secure state, federal, and/or other grants or assistance in support of such projects, and to monitor and comment on such projects during their duration.
10. Seek any benefits that may be granted under the National Historic Preservation Act, as amended, or any other state or federal legislation, including, but not limited to, the benefits that are received from communities under the Certified Local Government (CLG) program with regard to training, grant funding, and technical assistance.
11. Prepare an annual report to be presented to the Mayor and City Council of the Committee's activities and the effects of the historic preservation program on the economic development and general welfare of the City and its residents.

## C. Surveys and Inventories

1. The Community Development Director shall conduct surveys and inventories to identify neighborhoods, areas, sites, buildings, structures, and objects in the City of Las Cruces that possess historic, community, architectural, aesthetic, cultural, archaeological, or traditional importance, interest, or value related to the development of the community.
2. As part of the survey, the Community Development Director shall review and evaluate prior surveys and studies by any government entity or private organization, and recommend the compilation of appropriate research findings, including descriptions, newspapers accounts, land-use records, maps, deeds, photographs, and/or other useful sources.
3. The Committee will provide input regarding the City's efforts in identifying potential cultural properties and historic districts, and apply procedures to nominate those potential cultural properties and historic districts that are at least 50 years of age based on the following criteria:
   a) The potential cultural properties are situated in a single, identifiable neighborhood or distinct geographical area of the community; or
   b) The potential cultural properties are associated with a particular person, event, and/or era of the community's past; or
   c) The potential cultural properties are of a particular architectural style, school, or building technique; or of a particular architect, engineer, builder, designer, craftsman, or artisan; or
   d) Such other criteria as may be adopted by the Committee to assure systematic surveys and inventories of potential cultural properties and historic districts within the municipal boundaries.
4. The Community Development Director shall apply eligibility criteria to potential cultural properties and historic districts and provide recommendations to the Committee to nominate such properties as procedurally outlined in this article for inclusion in the City's Register of Cultural Properties.

## D. Cultural Property Designation

1. Standards for the Designation of a Cultural Property or Cultural Properties

   Upon the successful evaluation of eligibility criteria to base a recommendation for designation, the Committee shall recommend to the City Council a justification for a property's inclusion in the City's Register of Cultural Properties contingent upon that property meeting all of the following requirements:

   a) Located within the corporate boundaries of the City; and
   b) At least 50 years old, in whole or in part, or else of exceptional significance; and
   c) Possesses integrity of design, materials, workmanship, setting, location, feeling, and association, as defined for listing in the National Register of Historic Places; and

d) Embodies such other qualities and characteristics as in the judgment of the Committee should be considered for designation as a cultural property; and

e) Possesses one or more of the following demonstrations of significance:

i) A broad cultural, political, economic, or social association with the historic development of the community, the state, or the nation; and/or

ii) Identification with a historic person or with important events in local, state, and/or national history; and/or

iii) Possesses distinguishing characteristics of an architectural type inherently valuable for the study of a period, style, method of construction, or use of indigenous materials or craftsmanship; and/or

iv) Possesses authenticity of its period of significance as evidenced by the survival of its characteristics, historic fabric, and architectural elements from that period; and/or

v) Is a notable work of a master builder, designer, or architect; and/or

vi) Possesses or may likely yield information important in prehistory or history; and/or

vii) An improvement embodying all or part of the above characteristics which is subject to encroachment of detrimental influences or potential adverse effects; and/or

viii) An improvement of historical, architectural, or cultural significance that is threatened with demolition by public or private action; and/or

ix) Possesses other qualities and characteristics that, in the judgment of the Committee should be considered for designation as a cultural property.

2. Procedure for the Designation of a Cultural Property

Any nomination application for a proposed cultural property shall be subject to the following review process:

a) Pre-Application Meeting

Prior to submitting an application for cultural property designation, an applicant shall meet with the Community Development Director to review the nomination proposal. The Director shall explain to the applicant the procedure and standards to nominate a property for designation, and include the historic context and any known architectural, cultural, or archaeological significance associated with the property. Additionally, when the applicant is not the owner of record, the Director shall encourage the applicant to contact the owner(s) of record prior to proceeding with the application process to secure the owner(s)'s consent.

b) Applicant Eligibility

Nominations for cultural property designation may be made by any property owner(s) of record; a contract purchaser of a nominated property; an individual, a group, or an association; or the Historic Preservation Committee.

c) Property Eligibility

Any building, structure, object, or site that meets the criteria outlined in **1. Standards for the Designation of a Cultural Property or Cultural Properties** is eligible for consideration to be nominated for designation.

d) Owner Consent

In every case, the owner(s) of record must provide written approval of the application. If the applicant is not the owner of record, owner consent must be received before moving forward with the cultural property designation nomination process.

e) Application

Upon the applicant's request, the Community Development Director shall provide a Historic Cultural Properties Inventory (HCPI) Form. The applicant shall complete the form, which shall include, among other information, a

legal description of the building, structure, object, or site. At the applicant's request, the Director may assist with the completion of the designation form.

f) Filing

Upon the applicant's delivery of the completed Historic Cultural Properties Inventory (HCPI) Form, the Community Development Director shall review the application within ten business days of its filing, and notify the applicant in writing of any deficiencies that must be corrected and/or clarified prior to the scheduling of a public meeting. Failure of the applicant to provide amended information within 15 business days of the notice of deficiencies will result in an automatic withdrawal of the application.

g) Notice

Within five business days of the filing of an application, whether or not deemed complete, the Community Development Director shall notify in writing the owner(s) of record of the proposed designation nomination, except in the cases when the applicant is the owner of record, or the owner of record previously provided consent in writing to the Director.

h) Schedule a Public Meeting

Upon receipt of a completed Historic Cultural Properties Inventory (HCPI) Form, the Community Development Director shall schedule a public meeting for the next regularly scheduled meeting of the Historic Preservation Committee in accordance with the Open Meetings Act (NMSA 1978, Section 10-15-1 et seq.).

i) Notice of Public Meeting

Notice of the public meeting shall be published on the City of Las Cruces webpage and in a newspaper of general circulation within the City not less than 15 calendar days in advance of the date of the meeting. The notice shall identify the applicant, property owner(s) of record, legal description of the property, and common address of the property.

j) Mailing

Not less than 15 calendar days prior to the public meeting, the Community Development Director shall mail a written notice to the owner(s) of record of the subject property and the owner(s) of record of all properties within 500 feet. Written notice shall include the date, time, and location of the scheduled public meeting and information regarding access to a digital or written copy of the completed application of the Historic Cultural Properties Inventory (HCPI) Form.

k) Public Meeting Sign

The applicant shall place one sign per frontage upon the public right-of-way adjacent to the property that is the subject of the public meeting at least 15 calendar days in advance of the date of the public meeting .

l) Eligibility Report

Prior to the public meeting on the application for a cultural property nomination, the Community Development Director shall conduct an analysis of the property proposed for designation and prepare a report containing preliminary findings on the historic, cultural, architectural and aesthetic significance of the property. The analysis shall be provided in writing to the Committee and made available to the public in advance of the public meeting.

m) Public Meeting

Applicants shall meet with the Committee and the Community Development Director at a public meeting for a formal recommendation by the Committee regarding the proposed project. The Committee shall conduct the public meeting and a record of such proceedings shall be preserved in such a manner as prescribed by the City of Las Cruces.

n) Withdrawal of Application

An applicant may, at any time during the nomination process, withdraw an application for cultural property designation by providing notice, in writing, to the Community Development Director.

o) Historic Preservation Committee Action

i) At the public meeting, the Committee shall take statements presented by the owner(s) of record of the subject property, as well as statements, either oral or written, from any interested parties concerning the eligibility and/or effect of the potential designation on the proposed cultural property.

ii) The Committee may invite and consider testimony to evaluate information provided either during the nomination process or during the public meeting. A public meeting may be postponed indefinitely or postponed to a date specific in the event that the Committee determines that additional information, unavailable at the public meeting, is warranted and necessary for the purpose of making a finding of fact or to provide time to evaluate fully new evidence presented at the public meeting.

iii) If the Committee fails to act within 45 calendar days of the final adjournment of a public meeting for the designation of a cultural property, the Committee shall be deemed to have recommended denial. Otherwise, upon approval of the cultural property designation application, the Community Development Director or the Committee shall draft a Cultural Property Designation Report for City Council action. Said report shall include a map of the subject property, current and historical photographs, history of the property, plans and drawings (if available and if applicable), and a determination on the eligibility criteria.

p) City Council Action

i) Upon considering the Committee's finding of fact regarding a nomination, the City Council shall grant or deny the Cultural Property Designation Report and application for cultural property designation with a simple majority or greater vote.

ii) Upon designation as a cultural property by the City Council, a notice of the designation will be sent by the Community Development Director to the applicant and/or owner(s) of record of the building, structure, object, or site. The applicant and/or owner(s) of record shall be responsible for providing a copy of the resolution effectuating the designation to the Doña Ana County Clerk’s Office. A copy of the recorded resolution shall be returned to the Community Development Department within 60 calendar days of City Council approval of a cultural property designation. When designated as a cultural property, the property shall be included in the City of Las Cruces Register of Cultural Properties and shall be identified on the City's Geographic Information Systems (GIS) mapping layers with the appropriate shorthand designation as a cultural property.

q) Suspension of Work

During the period beginning with the filing of an application for cultural property designation and ending with the final action of the City Council granting or denying said application, no exterior architectural feature of any building, structure, object, or site that is the subject of an application for cultural property designation may undergo alteration, construction, demolition, or removal if such alteration, construction, demolition, or removal would be subject to a building permit issued after the filing of a cultural property application. Nothing in this subsection shall operate to bar ordinary repair and maintenance or any work that is necessary to prevent or correct an imminently dangerous or hazardous condition.

r) Re-Application Following Denial or Withdrawal of an Application

In the event that an application for cultural property designation is denied by the Committee and/or City Council or the application is withdrawn by the applicant, no subsequent application for cultural property designation of the same building, structure, object, or site shall be made within 12 months of the date of the denial. If the applicant withdraws the application prior to review by the Committee, a subsequent application may be submitted at any time.

s) Amendments

Any property owner of record; a contract purchaser of a nominated property; individual or group of City residents; association with members who are City residents; or the Historic Preservation Committee may request that the designation of a cultural property be amended by the same procedures and according to the same criteria set forth herein for designation. An amended application relating to the same property may be entertained by the Committee at any time following City Council action designating any building, structure, object, or site as a cultural property. Minor, material amendments, excluding boundary amendments, may be completed administratively without a public meeting.

t) Rescinding of Designation

Any property owner of record; a contract purchaser of a nominated property; individual or group of City residents; association with members who are City residents; or the Historic Preservation Committee, on its own initiative and with prior consent of the City Council, may request that the designation of a cultural property be rescinded by the same procedures and according to the same criteria set forth herein for designation. The City Council may rescind cultural property designation of any designated property provided that the vote to rescind the designation is not less than a two-thirds vote of the councilors holding office.

## E. Historic District Designation

1. Standards for Designation of Historic Districts

The Historic Preservation Committee shall not recommend, nor the City Council grant, a designation of a historic district unless each body makes findings based upon the evidence presented to it in each specific case, and that the proposed historic district meets all of the following requirements:

a) Located within the corporate boundaries of the City; and

b) Includes one or more cultural properties along with such other buildings, structures, objects, or sites which, while not of such historical significance to be designated as individual cultural properties, nevertheless contribute to the overall visual characteristics that have been identified as significant within the proposed historic district; and

c) At least 50 years old, in whole or in part, or else of exceptional significance; and

d) Possesses integrity of design, materials, workmanship, setting, location, feeling, and association, as defined for listing in the National Register of Historic Places; and

e) Establishes a sense of time and place; and

f) Includes potentially eligible cultural properties that possess one or more of the following demonstrations of significance:

i) A broad cultural, political, economic, or social association with the historic development of the community, the state, or the nation; and/or

ii) Identification with a historic person or persons or with important events in local, state, and/or national history; and/or

iii) Possess distinguishing characteristics of an architectural type inherently valuable for the study of a period, style, method of construction, or use of local materials or craftsmanship; and/or

iv) Possess authenticity of its period of significance as evidenced by the survival of its characteristics, historic fabric, and architectural elements from that period; and/or

v) Represent a notable work of a master builder, designer, or architect; and/or

vi) Possess or may likely yield information important in prehistory or history; and/or

vii) Possess architectural or land-use characteristics that are repeated throughout the area in a manner which distinguishes the proposed historic district from the rest of the City; and/or

viii) An area embodying all or part of the above characteristics that is subject to encroachment of detrimental influences and potential adverse effects; and/or

ix) An area of historical, architectural, or cultural significance that is threatened with demolition by public or private action; and/or

x) An area with other qualities and characteristics that, in the judgment of the Committee, should be considered for designation as a historic district.

2. Procedure for the Designation of a Historic District

Any nomination application for a proposed historic district shall be subject to the following review process:

a) Pre-Application Meeting

Prior to submitting an application for historic district designation, an applicant shall meet with the Community Development Director to review the nomination proposal. The Director shall explain to the applicant the procedure and standards to nominate an area for designation, and include any known architectural, cultural, or archaeological significance associated with the area. Additionally, the Director shall require the applicant to secure support for the proposed historic district nomination in the form of petition signatures of at least 20 percent of the owners of record within the boundaries of the proposed historic district.

b) Applicant Eligibility

Nominations for historic district designation may be made by any property owner(s) of record; a contract purchaser of a nominated property; an individual or group of City residents; an association with members who are City residents; or the Historic Preservation Committee.

c) Owner Consent

Consent must be attained from at least 20 percent of the owners of record within the boundaries of the proposed historic district, and this support among property owners shall be achieved in the form of gathering signatures on a petition.

d) Application

Upon the applicant's request, the Community Development Director shall provide a Historic Cultural Properties Inventory (HCPI) Form, which shall be completed and contain all of the following information:

i) A map delineating the boundaries of the area proposed for designation;

ii) A written statement setting forth the character of the area and justification for designation of the proposed area;

iii) Drawings or photographs of significant buildings, structures, sites, or objects within the boundaries of the proposed area;

iv) Descriptions of the historic condition and use, existing condition and use, and approximated or exact age of each property within the boundaries of the proposed district; and

v) Such other information as prescribed by the Historic Preservation Committee.

e) Filing

Upon the applicant's delivery of the completed Historic Cultural Properties Inventory (HCPI) Form, the Community Development Director shall review the application within 30 business days of its filing, and notify the applicant in writing of any deficiencies that must be corrected and/or clarified prior to the scheduling of a public meeting. Failure of the applicant to provide amended information within 45 business days of the notice of deficiencies will result in an automatic withdrawal of the application.

f) Notice

Within 15 business days of the filing of an application, whether or not deemed complete, the Community Development Director shall notify, in writing and delivered by certified mail with return receipt, the owners of record within the boundaries of the proposed designation nomination. Said notification shall identify the boundaries of the proposed district and provide a date, time, and location for a public, informational meeting to be convened by the Director not more than 30 business days from the date of the filing of an application.

g) Schedule a Public Meeting

Upon receipt of a completed Historic Cultural Properties Inventory (HCPI) Form, the Community Development Director shall schedule a public meeting for the next regularly scheduled meeting of the Historic Preservation Committee in accordance with the City's notification requirements for public meetings.

h) Notice of Public Meeting

Notice of the public meeting shall be published on the City of Las Cruces webpage and in a newspaper of general circulation within the City not less than 15 calendar days in advance of the date of the meeting. The notice shall identify the legal description of the proposed boundaries, the name of the subdivision(s) (if applicable), and a general description of the area bounded by the proposed historic district.

i) Mailing

Not less than 15 calendar days prior to the public meeting, the Community Development Director shall mail a written notice to the owners of record of all properties within the boundaries of the proposed historic district. Written notice shall include the date, time, and location of the scheduled public meeting and information regarding access to a digital or written copy of the completed application of the Historic District Designation Form.

j) Public Meeting Sign

The applicant shall place one sign upon the public right-of-way adjacent to the boundaries of the proposed district's area at least 15 calendar days in advance of the public meeting’s date.

k) Public Meeting

The Committee shall conduct the public meeting and a record of such proceedings shall be preserved in such a manner as prescribed by the City of Las Cruces. The meeting’s purpose shall be to provide information regarding the details and the potential land-use impacts of the proposed historic district. Owners of record shall be informed of the right to support or object to the proposed historic district. Opportunity for public comments regarding the merits and potential impacts of the proposed historic district will be provided at the public meeting.

l) Withdrawal of Application

An applicant may, at any time during the nomination process, withdraw an application for historic district designation by providing notice, in writing, to the Community Development Director.

m) Owner Objection

In the event that owners of record of the individual real properties within the proposed historic district object to the designation of the proposed historic district, those objections shall be recorded on forms provided by the Community Development Department; completed forms shall be notarized and filed with the City Clerk at any time but not later than 30 calendar days following the final adjournment of the public meeting.

n) Historic Preservation Committee Recommendation

i) At the public meeting, the Committee shall consider statements presented by the owners of record of any property within the boundaries of the proposed historic district, as well as statements, either oral or written, from any interested parties concerning the effect of the proposed designation on the affected properties.

ii) The Committee may invite and consider testimony to evaluate information provided either during the historic district nomination process or during the public meeting. A public meeting may be postponed indefinitely or postponed to a date specific in the event that the Committee determines that additional information, unavailable at the public meeting, is warranted and necessary for the purpose of making a finding of fact or to provide time to evaluate fully new evidence presented at the public meeting.

iii) The Committee shall make written findings of fact and shall assist the Community Development Director to submit same in the form of a Historic District Designation Report, together with its recommendation, to the Planning & Zoning Commission within 45 calendar days following the close of the public meeting.

iv) If the Committee fails to act within 45 calendar days of the final adjournment of a public meetingfor the designation of a historic district, the Committee shall be deemed to have recommended denial. Otherwise, upon approval of the historic district designation application, the Community Development Director shall draft a Historic District Designation Report for Planning & Zoning Commission action. Said report shall include a map of the proposed district's boundaries, current and historical photographs, histories of the properties, plans and drawings (if available and if applicable), and a determination on the eligibility criteria.

o) Planning & Zoning Commission Recommendation and City Council Action

i) The Planning & Zoning Commission shall consider recommendation and City Council shall consider action in accordance with **Sec. 36-5.A. Zoning Map Amendments**.

ii) When no owner objection is filed in accordance with this chapter, the Committee or Council shall grant or deny the nomination for historic district designation with not less than a majority vote. When an owner of record, or owners of record, properly file objections with the City Clerk in accordance with this chapter, the Committee or Council may grant the proposed designation upon the condition that demonstrable support of the designation by a simple majority of owners of record within the proposed historic district's boundaries can be presented.

iii) Upon designation as a historic district by the City Council, a notice of the designation will be sent by the Community Development Director to the owners of record of the properties within the boundaries of the designated district. The owners of record shall be responsible for providing a copy of the resolution effectuating the designation to the Doña Ana County Clerk’s Office. A copy of the recorded resolution shall be returned to the Community Development Department within 60 calendar days of City Council approval of a historic district designation. When designated as a historic district, the historic district shall be included in the City of Las Cruces Register of Cultural Properties and shall be identified on the City's Geographic Information Systems (GIS) mapping layers with the appropriate shorthand designation as a historic district.

p) Suspension of Work

i) During the period beginning with the filing of an application for historic district designation and ending with the final action of the City Council granting or denying said application, no exterior architectural feature of any building, structure, object, or site that is the subject of an application for historic district designation may undergo alteration, construction, demolition, or removal if such alteration, construction, demolition, or removal would be subject to a building permit issued after the filing of a historic district application. Nothing in this subsection shall operate to bar ordinary repair and maintenance or any work that is necessary to prevent or correct an imminently dangerous or hazardous condition.

ii) Re-application following denial or withdrawal of an application. In the event that an application for historic district designation is denied by the City Council or the application is withdrawn by the applicant, no subsequent application for historic district designation shall be made within 12 months of the date of the denial. If the applicant withdraws the application prior to review by the Historic Preservation Committee, a subsequent application may be submitted at any time.

q) Amendments

Any property owner of record; a contract purchaser of a nominated property; individual or group of City residents; association with members who are City residents; or the Historic Preservation Committee, on its

own initiative and with prior consent of the Planning & Zoning Commission, may request that the designation of a historic district be amended by the same procedures and according to the same criteria set forth herein for designation. An amended application relating to the same district may be entertained by the Committee at any time following City Council action designating a historic district. Minor, material amendments, excluding boundary amendments, may be completed administratively without a public meeting.

## F. Review Standards for Cultural Properties

In making recommendations for proper and accepted treatments for the rehabilitation and restoration of cultural properties and older building inventory, the Historic Preservation Committee shall be governed by the following review standards and design principles:

1. Standards for Review of Cultural Properties

   The review of plans for changes affecting the exterior appearance of designated cultural properties shall be based upon the Secretary of the Interior's "Standards for Rehabilitation" as follows, as amended:

   a) A property shall be used for its historic purpose or be placed in a new use (i.e., adaptive reuse) that requires minimal change to the defining characteristics of the building and its site and environment.

   b) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of exterior features and spaces that characterize a property shall be avoided.

   c) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

   d) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

   e) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

   f) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

   g) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

   h) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

   i) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

   j) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

2. Design Principles for Cultural Properties

   a) Any new construction such as primary buildings, secondary, and accessory buildings and additions to historic buildings and structures at a cultural property or at a property within a designated historic district shall conform, subject to the restrictions of **Chapter 36. Zoning Regulations**, to the following general design principles:

i) Relationship of Building Mass and Space

The relationship between the open space between existing structures and adjoining structures shall be proportionate to and compatible with the adjacent neighborhood;

ii) Scale of Structure

The scale of any alterations, modifications, or additions, or of any new construction shall be compatible with the existing, surrounding structures;

iii) Height

The height of any proposed alteration, addition, or new construction shall be compatible with the existing structure and with neighboring structures;

iv) Directional Expression of Principal Facade

Any proposed alteration or new construction shall be compatible with the predominant horizontal or vertical expression of the historic structure and, for wholly new construction, the predominant horizontal or vertical expression along the street block;

v) Proportions of Street-Facing Facades

The relationship between the width and height of any historic structure and any proposed modification, alteration, or addition at a street-facing façade shall be compatible with one another and the relationship between the width and height of any proposed new structure shall be compatible with nearby structures;

vi) Relationship of Windows and Doors

The relationship between and among doors and windows shall be compatible with and in proportion to each other and be compatible with the historic character of such elements;

vii) Architectural Details

Architectural details and materials shall be incorporated, as necessary, to relate new construction with historic construction to preserve and enhance the inherent characteristics of the historic property and/or neighboring properties; and

viii) Roof Form

The design of any roof shall be compatible with the roof forms and materials of the historic roof of any existing improvement, building, structure, or object.

b) In addition to the foregoing, the Historic Preservation Committee will apply review standards as further set forth in any policy, preservation plan, or design guidelines adopted by the Committee; the U.S. Secretary of the Interior's Standards for Rehabilitation, as amended; and/or the National Park Service's Guidelines for Rehabilitating Historic Buildings, each as amended from time-to-time.

3. Standards for Adaptive Reuse

a) Adaptive reuse is a process that transforms a disused or ineffective structure into something that can be used for a different purpose. Sometimes, nothing changes except the item’s use. The adaptive reuse of a historic building should have minimal impact on its heritage significance and setting. Adaptive reuse recognizes the need for the historic property to meet continuing changes in the community while retaining the property’s historic character.

b) By reusing an existing building, the energy required to create these spaces, the material waste generated from the tenant improvement, and the use of new materials are lessened. The revitalization of buildings through reuse or repurposing also helps to stabilize neighborhoods and preserve the City’s historic character and architecture, reduce the environmental hazards and costs associated with new construction, and enhance economic growth with new housing and employment opportunities. Communities further benefit from the

added values of context, culture, history, and ambiance, resulting in true community redevelopment and sustainability.

c) With regard to the applications for adaptive reuse of a cultural property, the following matters shall be considered:

i) Its historical, architectural, cultural, and aesthetic significance;

ii) Its use, its intended use, and/or the use for which the cultural property was originally designed; new construction, addition, repair, or maintenance not associated with a change of use or occupancy classification do not qualify as an adaptive reuse project;

iii) All adaptive reuse projects are subject to review by the Historic Preservation Committee. The Committee will review the project for overall design, exterior materials, zoning requirements, and health and safety factors to ensure that it meets the requirements and will result in a functional and attractive addition to the local neighborhood and to the City.

iv) Adaptive reuse projects are complex and challenging. Even if all of the above steps are completed, given the nature of existing historic structures, unforeseen complexities are to be expected during construction. Because of this, regular communication with the building inspector during construction will be vital to ensure that potential delays are minimized or reduced.

4. Standards for Requests for Demolition

With regard to applications to demolish a cultural property, the following matters shall be considered:

a) Its historical, architectural, cultural, and aesthetic significance.

b) Its use, its intended use and/or the use for which the building, structure, object, or site was originally designed and the feasibility of the continuation of its designed use.

c) Its importance and the extent to which its historical or architectural value is such that its removal will be detrimental to the public interest.

d) The extent to which it is of such unusual or uncommon design, craftsmanship, texture, or material that it could not be reproduced or could be reproduced only with great difficulty.

e) The extent to which its retention would be of economic value, attract tourists, educate citizens regarding the City's heritage, or make the City a more attractive and desirable place to live.

f) The probable impact of its removal upon the ambience and integrity as a cultural resource.

g) The structural soundness and integrity of the building, structure, object or site and the economic feasibility of its restoration or rehabilitation so as to allow for its reasonable use.

h) The threat to public health and safety as a result of deterioration or disrepair of the building, structure, object, or site, excluding demolition by neglect.

i) The technological feasibility of structural rehabilitation.

5. Criteria Regarding Relocation of Cultural Properties

The following factors shall be considered with regard to an application to move to a new location or site any cultural property:

a) The impact of the loss of integrity suffered as a result of removal from the original location; and, if located within a historic district, the impact of that loss of integrity upon the district as a whole.

b) The relative value to the applicant of the proposed relocation contrasted to the value to the community as a whole in allowing it to remain at its original and/or historic site.

c) The compatibility, nature, and character of the areas adjacent to both the present site and the proposed site as they relate to the protection of historic properties and districts.

d) In the event that a proposed new location is in a historic district, the impact on the visual compatibility of adjacent buildings, structures, objects, or sites.

e) The likelihood of significant damage to the physical integrity of the building or structure itself.

## G. Review of Proposed National Register of Historic Places Nominations

1. Before a property located within the municipal boundaries of the City of Las Cruces may be considered for inclusion in the National Register of Historic Places, the State Historic Preservation Officer (SHPO) or designee in the New Mexico Historic Preservation Division (NMHPD) shall notify the applicable chief local elected official and the Historic Preservation Committee according to the following procedure:

   a) The SHPO/NMHPD shall forward a copy of the completed National Register nomination to the City for all properties located in the City's jurisdiction within 30 calendar days of receipt unless the City initiated the nomination. If the City initiates its own nomination, it shall provide the completed nomination to SHPO/NMHPD within 30 days of completion.

   b) Within 60 days, the Committee shall provide opportunity for public comment by including the National Register nomination on the agenda of the next regularly scheduled public meeting.

   c) The Committee shall prepare a report regarding the eligibility of the property and whether or not, in its opinion, the property meets the criteria for listing in the National Register of Historic Places.

   d) Within 60 days of notice from the SHPO/NMHPD, the chief local elected official shall transmit the report of the Committee and the elected official's recommendation to the SHPO/NMHPD.

   e) If either or both the Committee and the Mayor agree that the property should be nominated, the nomination will be scheduled for review by the Cultural Properties Review Committee and make the report and recommendations available to the Secretary of the Interior.

2. If both the Committee and the chief elected official recommend that a property not be nominated to the National Register of Historic Places:

   a) The SHPO/NMHPD shall take no further action, unless within 30 days of the receipt of such recommendation an appeal is filed with the SHPH/NMHPD.

   b) If such an appeal is filed, the SHPO/NMHPD shall follow the procedures for making and submitting a nomination.

   c) Any report and recommendations made that the property should not be nominated shall be submitted to the Secretary of the Interior.

## Sec. 35-3. Plan Review, Certificates of Appropriateness, and Economic Hardship

### A. Plan Review of Cultural Properties

1. Plan review shall be completed for any new construction, addition, remodeling, rehabilitation, renovation, restoration, or proposed demolition of the exterior of any building, structure, object, or site that meets the following criteria:

   a) Visible from a public right-of-way, excluding public alleyways at the rear of a property; and

   b) Proposed for an individually designated cultural property or for any property within a designated historic district; and

   c) Requires a Building Permit as defined by the Building Code (see Chapter 30 Buildings and Building Regulations of the Las Cruces Municipal Code).

   d) Plan review submittal requirements and review standards are based on the property location within the City; the age of the property; and the contributing element of the property as assigned by survey, as amended every 10 years.

   e) Every reasonable effort shall be made to provide a compatible use for any designated cultural property. The destruction, alteration, or removal of original distinguishing elements or architectural features of a building, structure, object, or site and its environment shall be avoided.

   f) Each applicant may request one or more pre-application meetings with the Community Development Director to review proposed scopes of work and compliance with historic preservation design standards, building codes, zoning requirements, and other applicable regulations.

   g) Submittal requirements identified herein satisfy historic compliance review but shall not be construed to reflect the submittal requirements of other review authorities. Applicants should consult with appropriate City staff prior to submitting an application for building permit application review.

**Figure 35-3-1. Building Permit and COA Process Summary**




2. Procedure to Apply for Building Permits and Certificates of Appropriateness

   Any application for a Building Permit to undertake any work at a designated cultural property shall be subject to the following review process:

   a) Application for a Building Permit to Alter an Existing Structure

      Applicants shall provide the following information as part of a Building Permit application:

      i) A completed Building Permit application and a completed Certificate of Appropriateness application; and

      ii) A site map or aerial view of the parcel of land on which the subject building, object, structure, site, or improvement is located; and

      iii) Photographs of the current exterior condition of the subject area; and

      iv) Historic images of the subject property, if available; and

      v) Material samples and/or product specifications for any proposed new or repair materials including, but not limited to, siding materials and installation pattern; masonry color, texture, and bonding pattern; roof shingles; major architectural elements (e.g., doors, windows, columns, decorative architectural features, etc.); and

vi) Drawings and/or specifications detailing the proposed scope of work including, but not limited to, building elevations, plans, and significant architectural details; and

vii) Other reasonable information that may be requested by the Community Development Director.

Information submitted for review by the Historic Preservation Committee must be provided in a format as required by the Community Development Director but not less than one printed copy of all requested documentation; one sample of proposed materials; and one electronic or digital copy (only jpeg or gif format unless another format is approved prior to submittal; any electronic submittal must be clearly legible when printed at 11-inch by 17-inch format).

b) Fees

Fees shall be calculated and collected by the City. Applicable deposits and fees shall be set by resolution and collected according to the current fee schedule for building permits.

c) Filing

The Certificate of Appropriateness application shall be submitted to the Community Development Director. Upon receipt of all required information, the application will be determined to be complete, and the Director shall schedule a meeting before the Historic Preservation Committee to review and render a decision on the application.

d) Plan Review of Cultural Properties and Historic District Properties

i) Certificate of Appropriateness applications for all other requests shall be reviewed by the Historic Preservation Committee with a public meeting as outlined below.

ii) All proposed alterations shall be evaluated in accordance with **Sec. 35-2.F. Review Standards for Cultural Properties**.

e) Schedule a Public Meeting

Upon receipt of a completed Certificate of Appropriateness application, the Community Development Director shall schedule a public meeting for a regularly scheduled meeting of the Historic Preservation Committee in accordance with the City's notification requirements for public meetings.

f) Appropriateness Report

Prior to the public meeting on the Certificate of Appropriateness application, the Community Development Director shall conduct an analysis of the subject property and prepare a report containing preliminary findings on the historic, cultural, architectural and aesthetic significance of the property. The analysis shall be provided in writing to the Committee and made available to the public in advance of the public meeting.

g) Public Meeting

The Committee shall conduct the public meeting and a record of such proceedings shall be preserved ~~in such a manner as prescribed by **Sec. 34-3.G. Notice for a Public Meeting**~~.

h) Withdrawal of Application

An applicant may, at any time during the review process, withdraw a Certificate of Appropriateness application by providing notice, in writing, to the Community Development Director.

i) Historic Preservation Committee Action

The Committee shall act upon completed Certificate of Appropriateness applications in a timely manner. The Committee may request modifications to the proposed scope of work as a condition of approval of a Certificate of Appropriateness; it may approve the application without modifications; or it may deny the application. No decision rendered by the Committee shall conflict with provisions in **Chapter 36. Zoning Regulations**.

j) Issuance of a Certificate of Appropriateness

Upon the approval of a Certificate of Appropriateness application, either administratively or by the Committee, the Community Development Director shall issue a Certificate of Appropriateness to the applicant as a component, and in conjunction with other requirements, to be issued a building permit.

k) Suspension of Work

During the period beginning with the filing of a Certificate of Appropriateness application and ending with the final action taken on the Certificate of Appropriateness, no exterior architectural feature of any building, structure, object, improvement, or site that is the subject of an application may undergo any alteration or construction, if such work would be subject to plan review and issuance of a Building Permit.

l) Final Inspection

The Building Official and/or Building Inspector(s), in consultation with the Community Development Director, shall complete, prior to issuance of a Certificate of Occupancy, an inspection of any work approved under a Certificate of Appropriateness to ensure compliance with the approvals granted by the Committee or on its behalf. Nothing in this subsection shall operate to bar repair and maintenance or any work that is necessary to prevent or correct an imminently dangerous or hazardous condition.

m) Lapse of a Certificate of Appropriateness

An approved Certificate of Appropriateness shall be valid for one year from the date of issuance to the applicant to complete the proposed scope of work. In the event the applicant is unable to complete the approved scope of work, the Community Development Director may approve up to one six-month extension to complete the scope of work. In the event the approved scope of work remains incomplete upon the expiration of 18 months since issuance, the applicant will be required to submit a new Certificate of Appropriateness application.

## B. Plan Review for Municipal-Owner Cultural Properties

Plan review shall be completed for any new construction, addition, remodeling, rehabilitation, renovation, or restoration, or proposed demolition of the exterior of any building, structure, object, or site, or historic interior, of any cultural property owned by the City of Las Cruces, in accordance with the following criteria:

1. The plan review process shall adhere to the procedures as stated in **Sec. 35-3.A. Plan Review of Cultural Properties**; and
2. The proposed scope of work shall be reviewed by the Community Development Director and/or the Historic Preservation Committee in accordance with **Sec. 35-2.F. Review Standards for Cultural Properties**.

## C. Demolition of Cultural Properties

1. Requests for demolition of any portion of or the entirety of any building, structure, site, or object deemed significant shall require review by the Historic Preservation Committee. Criteria used to assess significance include:
   a) More than 50 years of age;
   b) Designed and/or constructed by a particular architect or builder, either by itself or in context of a group of buildings or structures;
   c) A naturally occurring land or geological formation that has been designated as a cultural property or is located within the boundaries of a designated historic district.
2. Deconstruction and reuse of historic materials is preferred over demolition. Demolition shall be considered only when all other redevelopment options for a building, structure, object, or site have been exhausted.

3. Procedure for the demolition of designated cultural properties.

   Demolition review begins with the filing of an application for a demolition permit and applies to any demolition, alterations, or new construction that involved total or partial demolition. During review, as assessment of the historical and/or architectural importance of the building, structure, and/or feature will be determined. The Historic Preservation Committee is responsible for determining the significance of the resource and whether it qualifies for preservation or demolition.

   a) Pre-Application Meeting

      Prior to submitting a demolition request, an applicant shall meet with the Building Official, Community Development Director, and/or other City Staff to review the demolition proposal. At that time, the Community Development Director shall identify to the applicant any known historic significance classification or documentation pertaining to the property.

   b) Application

      All applications for a demolition permit shall be submitted on forms provided by the Community Development Director. No demolition permit application shall be accepted for processing unless it is complete and is accompanied by all applicable fees, deposits, and bonds. A complete demolition permit application shall contain the following:

      i) A legible, dimensioned, and accurate Plat of Survey, prepared and sealed by a New Mexico licensed surveyor within 12 months of application, indicating location of all improvement proposed for demolition;

      ii) Written affidavit of the owner(s) of record of the property acknowledging the proposed demolition when the applicant is not the owner of record;

      iii) Plans of all levels of the building or structure proposed to be demolished;

      iv) Photographs of all existing conditions including all exterior elevations, all significant architectural features (exterior and interior), and all rooms or spaces (exterior and interior) affected by the proposed demolition work;

      v) Historic images of the property and general area of proposed demolition, if any available;

      vi) A detailed report of non-code-compliant elements and structural deficiencies, prepared by a registered architect, structural engineer with expertise in the rehabilitation of contemporary and/or historic properties, or an expert in adobe construction when applicable;

      vii) A detailed list of irreparable or deteriorated building features, components, or elements;

      viii) A detailed cost estimate for the rehabilitation of the improvement, property, or site, prepared by a design professional or licensed contractor with expertise in the renovation of contemporary and/or historic properties;

      ix) A comparison of the estimated rehabilitation cost of the property proposed for demolition with market values for comparable improvements, properties, or sites within the municipal boundaries;

      x) A detailed cost estimate for the restoration of the site per City code in the event that no new construction activity commences following demolition;

      xi) A summary of potential sites, if any, to which the resource could be relocated within the historic district with an estimate of the cost of the move to each proposed location, if any, by a qualified building mover;

      xii) A proposed schedule for demolition activities;

      xiii) A completed Building Permit application and a written justification outlining the reasons demolition is sought; and

      xiv) Other reasonable information required or that may be requested by the Community Development Director.

c) Fees

Fees shall be calculated and collected by the Community Development Department. Applicable deposits and fees shall be set by resolution and collected according to the current fee schedule for building permits.

d) Filing

An application for demolition shall be filed with the Building Official and the Community Development Director. Within ten business days of the filing of an application, the Community Development Director shall review the submitted application for demolition and inform the applicant, in writing, of any deficiencies that must be corrected and/or clarified prior to the scheduling of a public meeting. Failure of the applicant to provide amended information within 30 business days of the notice of deficiencies will result in an automatic withdrawal of the application.

e) Notice

i) Upon receipt of a complete demolition application, the Community Development Director shall schedule a public meeting for any cultural property or property located within a historic district, except for those properties designated as noncontributing due to a lack of architectural, historic, or structural significance or integrity, at a regularly-scheduled meeting of the Committee no sooner than 180 days from the acceptance of a completed application. Demolition permit applications for noncontributing buildings with no architectural, historical, or structural significance or integrity shall be reviewed at a regular public meeting.

ii) The applicant may request an additional public meeting to occur within the 180-day period to receive preliminary feedback from the HPC regarding the demolition application. HPC feedback at this meeting is intended to provide general opinion and is considered nonbinding. No official action will be taken by the HPC at this meeting. Notice shall be provided as indicated in **f)** below.

f) Notice of Public Meeting

Notice of a public meeting shall be published on the City of Las Cruces webpage and in a newspaper of general circulation within the City not less than 15 calendar days in advance of the date of the meeting. The notice shall identify the applicant, property owners of record, legal description of the property where demolition work is proposed, and the common address of the property where demolition work is proposed.

g) Public Meeting Sign

The applicant shall place one sign at the public right-of-way adjacent to the property that is the subject of the public meeting at least 15 calendar days in advance of the date of the public meeting. Said sign shall include the words "Proposed for Demolition" in addition to the date, time, and place of such public meeting.

h) Mailing

Not less than 15 calendar days prior to the public meeting, the Community Development Director shall mail a written notice to the owners of record of the property proposed for demolition and to the owners of record of all properties identified herein for notification within 500 feet. Written notice shall include the date, time, and location of the scheduled public meeting and information regarding access to a digital or written copy of the demolition application.

i) Property Analysis

i) Prior to the public meeting, the Community Development Director shall visit the site to familiarize themselves with the existing condition of the property proposed for demolition.

ii) Prior to the public meeting for the purpose of reviewing a demolition application, the Community Development Director shall conduct an analysis of the submitted documents and a written summary of the site visit as part of a written report containing preliminary findings on the historical, architectural, cultural, and aesthetic significance of the subject property. The analysis shall be provided to the Committee, in writing, and made available to the public in advance of the public meeting.

j) Public Meeting

i) The public meeting for the purpose of reviewing a demolition application shall be conducted by the Historic Preservation Committee and a record of such proceedings shall be preserved in such manner as the Committee shall, by rule, prescribe from time to time.

ii) The applicant bears the burden of proof that the failure to approve the proposed demolition would leave the subject property without an economically viable use, and that the sale, rental, or rehabilitation of the property is not possible, resulting in the property being incapable of earning any reasonable economic return.

k) Withdrawal of Application

An applicant may, at any time prior to the scheduled public meeting , withdraw an application for demolition by providing notice, in writing, to the Community Development Director or the Building Official.

l) Historic Preservation Committee Action

i) The Committee shall not only consider the property, building, structure, architectural feature, or object proposed for demolition; the merit of any proposed replacement construction or improvement shall also be a standard of review for a demolition request. The Committee may solicit testimony to evaluate information provided either as part of a demolition application or at the public meeting . A public meeting may be postponed indefinitely or postponed to a date specific in the event that the Committee determines that additional information, unavailable at the public meeting, is warranted and necessary for the purpose of making a finding of fact.

ii) Additionally, the Committee may continue a public meeting during a subsequent regularly scheduled meeting of the Committee to provide time to fully evaluate new evidence presented at the public meeting. Furthermore, the Committee may continue a public meeting regarding a request for demolition for a specified period of time, not to exceed 120 calendar days, for the sole purpose of allowing the applicant and the Committee to seek alternatives to demolition when the Committee determines that all of the following conditions exist:

a. The property itself, or in relation to its environs, has significant historical, architectural, aesthetic or cultural value in its present condition;

b. Realistic alternatives for preservation of the property—including adaptive uses—are believed to be neither cost-prohibitive nor beyond the limits of local market value; and

c. The property, in its existing condition, does not present a public health or safety hazard to individuals, neighboring properties, or the greater community.

iii) When the Committee postpones a recommendation regarding a demolition request, the Committee shall retract said postponement when the Committee determines that an applicant has:

a. Made a bona fide and reasonable, but unsuccessful, effort to locate a purchaser for the property who is willing to preserve, rehabilitate, or restore the improvement, property, or site;

b. Made a bona fide and reasonable, but unsuccessful, effort to locate a purchaser for the improvement who is willing and able to relocate the improvement to another property or site;

c. Made a bona fide and reasonable, but unsuccessful, effort to develop a cost-effective program for the preservation of the improvement; and

d. Agreed to accept a demolition permit on specified conditions of the Committee.

iv) If the cultural property qualifies as significant, the demolition delay period will start in order to provide time to document the resource and to explore preservation alternatives. If all alternatives have been reviewed, the applicant, as a condition of demolition approval, will prepare and submit, prior to commencement of demolition work, the following documentation of a building, structure, object,

improvement, or site that is designated as a cultural property or identified as a contributing or significant property within a designated historic district:

a. Site plan (scale not less than one inch equals twenty feet, zero inches);

b. Floor plans of each level (scale not less than one-eighth of one inch equals one foot, zero inches);

c. Elevations of each side of the property improvement (scale not less than one-eighth of one inch equals one foot, zero inches); and

d. Photographs of each elevation and significant interior or exterior architectural features as determined by the Committee (clear, black and white images).

v) The Committee shall make written findings of fact within 45 calendar days following the close of the public meeting.

vi) The Committee may grant a demolition request for a cultural property or a property within a historic district if, upon review of all testimony, the maintenance, use, and/or alteration of the property would cause immediate and substantial hardship for the owner(s) of record because rehabilitation in a manner which preserves the architectural, historic, or structural integrity of the property either:

a. Is infeasible from a technical, mechanical, or structural perspective; or

b. Would leave the property with no reasonable economic value because it would require an unreasonable expenditure when accounting for such factors as current market value, permitted uses of the property, and/or the cost of compliance with local, state, and federal codes applicable to the property.

vii) The Committee, by a simple majority vote, shall grant or deny the application for demolition.

m) Suspension of Work

During the period beginning with the filing of an application for demolition and ending with the final action of either the Historic Preservation Committee or the City Council, granting or denying said application, no exterior architectural feature of any building, structure, object, improvement, or site that is the subject of an application for demolition may undergo alteration, construction, demolition, or removal. Nothing in this subsection shall operate to bar ordinary repair and maintenance or any work that is necessary to prevent or correct an imminently dangerous or hazardous condition.

n) Site Restoration

Upon completion of any approved demolition, a site must be restored and maintained as required by City code until construction activity resumes at the property.

o) Lapse of Demolition Approval

Any approval granted by the Committee or City Council for the demolition, in whole or in part, of any building, structure, object, improvement, or site shall be valid for a period of 12 months from the date of the issuance of a demolition approval. Failure to complete the approved work in a timely fashion will require the re-application for approval of any outstanding demolition work.

4. Standards for Demolition Request Review

The Historic Preservation Committee shall make findings related to a demolition request based upon the evidence presented to it in each specific case and shall not approve a proposed demolition unless demolition action improves or corrects one or more of the following conditions:

a) The property constitutes a hazard to the safety and welfare of the general public or occupants of the property or site as determined, in consultation with the Community Development Director, by the Building Official, Code Enforcement Officer, Chief of Police, and Fire Chief and providing the property was not subject to demolition by neglect;

b) The property is a deterrent to a major improvement program that will be of substantial benefit to the community for which the applicant has secured all necessary and required planning and zoning approvals, environmental clearances, and project funding and providing the property was not subject to demolition by neglect;

c) Retention of the property will cause undue economic hardship to the Owner of Record when a governmental action, an act of God, or other events beyond the control of the applicant created the hardship and all feasible alternatives to eliminate the financial hardship (which may include the sale of the property at fair market value or relocation of the improvement to another site) have been attempted and exhausted by the applicant; or

d) The retention of the property is not in the best interest of the majority of the community.

5. Demolition by Neglect and Deferred Maintenance

Buildings, structures, and objects designated as a Cultural Property or lying within the boundaries of a historic district shall be maintained and protected from demolition that results from neglect or undeterred deterioration of the exterior features or structural elements.

a) Duty to Maintain

Any building, structure, or object designated as a cultural property or lying within the boundaries of a historic district shall be preserved against material deterioration of exterior features and structural elements by its owner of record. Nothing in this chapter shall exempt an improvement designated as a cultural or historic property from compliance with the provisions of the City's adopted Property Maintenance Code.

b) Duty to Repair

The owner of record (private or City) for any building, structure, or object designated as a cultural property shall, upon written notice from the Code Enforcement Officer, or other representative on behalf of the City, repair any deficient element that is contributing to material deterioration, including, but not limited to, damage to or decay of:

i) Foundations, flooring, or floor supports that causes leaning, sagging, splitting, listing, or buckling of all or part of the building, structure, or object;

ii) Walls or other vertical supports that causes leaning, sagging, splitting, listing, or buckling of all or part of the building, structure, or object;

iii) Ceilings, roofs, and their support systems or other horizontal members, that causes leaning, sagging, splitting, listing, or buckling of all or part of the building, structure, or object;

iv) Fireplaces or chimneys that causes leaning, sagging, splitting, listing, or buckling of all or part of the building, structure, or object;

v) Exterior finishes, including, but not limited to, wood, brick, stone, stucco, mortar, or other material;

vi) Any design detail, significant feature, or structural element that results in any appreciable loss of architectural, historic, or structural integrity of the building, structure, or object;

vii) Any window, window frame, door, or doorway that, individually or collectively, results in any appreciable loss of architectural, historic, or structural integrity of the building, structure, or object;

viii) Any feature intended to provide a watertight condition that results in significant moisture infiltration into the building, structure, or object;

ix) Any feature or element that results in the creation of a fire hazard or other nuisance to the welfare of the general public; or

x) Any archaeological site or vacant cultural property shall be adequately secured against unauthorized entry.

c) Completed Repair

Upon notice from the Codes Enforcement department, the Historic Preservation Committee shall verify, within 45 days, that the duty to repair was completed.

6. Natural Destruction or Demolition

In the case of partial or complete destruction or demolition of a cultural property as a result of an act of God or other natural disaster, the property may be completely demolished only with Committee concurrence, provided that the Building Official, Fire Department Chief, and Chief of Police, in consultation with the Community Development Director, jointly determine the improvement is structurally unsound and poses an immediate or imminent nuisance and/or hazard to the general health, safety, and welfare of the public.

## D. Certificate of Economic Hardship

In any case in which the proposed work of an applicant is not approved following either administrative or Historic Preservation Committee review and the submittal of a written findings of fact, an applicant may apply for a Certificate of Economic Hardship.

1. Procedure to Apply for a Certificate of Economic Hardship

a) Pre-Application Meeting

Prior to submitting a Certificate of Economic Hardship request, an applicant shall meet with the Community Development Director to review the basis for economic hardship relief.

b) Application

All applications for a Certificate of Economic Hardship shall be submitted on forms provided by the Community Development Director. No Certificate of Economic Hardship application shall be accepted for processing unless it is complete and is accompanied by all applicable items required.

c) Filing

The application for a Certificate of Economic Hardship shall be filed with the Community Development Director. Within ten working days of the filing of an application, the Director shall review the submitted application for a Certificate of Economic Hardship and inform the applicant, in writing, of any deficiencies that must be corrected and/or clarified prior to the scheduling of a public meeting. Failure of the applicant to provide amended information within 30 working days of the notice of deficiencies will result in an automatic withdrawal of the application.

d) Notice

Upon receipt of a complete Certificate of Economic Hardship application, the Community Development Director shall schedule a public meeting at the next regularly scheduled meeting of the Committee that is possible in accordance with the stipulated public notice procedure.

e) Notice of Public Meeting

Notice of the public meeting shall be published on the City of Las Cruces webpage and in a newspaper of general circulation within the City not less than 15 calendar days in advance of the date of the meeting. The notice shall identify the applicant, property owners of record, legal description of the property, and common address of the property.

f) Public Meeting Sign

The applicant shall place one sign at the public right-of-way adjacent to the property that is the subject of the public meeting at least 15 calendar days in advance of the date of the public meeting.

g) Mailing

Not less than 15 calendar days prior to the public meeting, the Community Development Director shall mail a written notice to the owners of record of the subject property and to the owners of record of all properties identified herein for notification within 500 feet. Written notice shall include the date, time, and location of the scheduled public meeting and information regarding access to a digital or written copy of the demolition application.

h) Public Meeting

The public meeting for the purpose of reviewing a Certificate of Economic Hardship application shall be conducted by the Historic Preservation Committee and a record of such proceedings shall be preserved in such manner as the Committee shall, by rule, prescribe from time to time.

i) Withdrawal of Application

An applicant may, at any time during the review process, withdraw a Certificate of Economic Hardship application by providing notice, in writing, to the Community Development Director.

j) Committee Action

i) At the public meeting, the Committee shall take statements presented by the owner(s) of record of the subject property as well as statements from any interested parties concerning the issuance of a Certificate of Economic Hardship. At a minimum, the applicant shall be required to submit evidence at the public meeting to support any of the Standards for a Certificate of Economic Hardship Review as identified in **Sec. 35-3.D.2** below. Evidence presented by the applicant, shall in the applicant's opinion, contribute to the economic hardship alleged to be incurred if the applicant is not granted a Certificate of Economic Hardship. Specific information and documentation that may be presented by the applicant and/or requested by the Committee may include:

a. The amount paid for the property, the date of the purchase, and the party from whom the property was purchased (including a description of the relationship, if any, between the owner and the entity from whom the property was purchased);

b. The assessed value of the land and improvements thereon according to the most recent assessments;

c. Real estate taxes for two years previous to the application for an economic hardship request;

d. Remaining balance on any mortgage, if any, and annual debt service, if any, for the two years previous to the application for an economic hardship request;

e. All appraisals obtained within the two years previous to the application for an economic hardship request by the owner of record or the applicant in connection with the purchase, financing, or ownership of the property;

f. Any listing of the property for sale or rent, price asked, and offers received, if any;

g. Any consideration by the owner of record or the applicant regarding profitable adaptive uses for the property;

h. If the property is income-producing, the annual gross income from the property for the two years previous to the application for an economic hardship request; itemized operating and maintenance expenses for the previous two years; and annual cash flow before and after debt service, if any, during the same period;

i. Form of ownership or operation of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture, or other; or

j. Any information including the income tax bracket of the owner of record or the applicant or any other principal investors in the property that is reasonably necessary for a determination as to whether or not

the property can be reasonably used or yield a reasonable return on an investment to present or future owners of the property.

ii) The Committee may invite and consider testimony to evaluate information provided either as part of a Certificate of Economic Hardship application or at the public meeting. A public meeting may be continued to a future date in the event that the Committee determines that additional information, unavailable at the public meeting, is warranted and necessary for the purpose of making a finding of fact.

iii) Furthermore, the Committee may continue a public meeting during a subsequent regularly scheduled meeting to provide time to fully evaluate new evidence presented at the public meeting.

iv) The Committee shall make written findings of fact within 45 calendar days following the close of the public meeting.

v) Upon the Committee's granting of relief due to economic hardship, the Community Development Director shall provide to the applicant a written Certificate of Economic Hardship that describes the rehabilitation relief granted and the basis of the economic relief.

k) Suspension of Work

During the period beginning with the filing of an application for a Certificate of Economic Hardship and ending with the final action of either the Historic Preservation Committee or the City Council, granting or denying said application, no exterior architectural feature of any improvement, property, or site that is the subject of an application may undergo any alteration or construction, if such work would be subject to a building permit and/or is subject to the issuance of a Certificate of Appropriateness. Nothing in this subsection shall operate to bar ordinary repair and maintenance or any work that is necessary to prevent or correct an imminently dangerous or hazardous condition.

l) Revocation of Certificate of Economic Hardship

If an applicant seeks a building permit for additional work on the same property for which a Certificate of Economic Hardship had been granted at an earlier date, the previously granted rehabilitation relief may be revoked and approvals for any additional work may include the requirement for completion of rehabilitation work previously deferred due to economic hardship.

2. Standards for a Certificate of Economic Hardship Review

The Historic Preservation Committee shall make findings related to a Certificate of Economic Hardship request based on the evidence presented to it in each specific case. The Committee shall not approve a Certificate of Economic Hardship unless it determines that the hardship was not created with the intent of circumventing this chapter and an applicant can prove one or more of the following conditions:

a) A substantial decrease in the fair market value of the property as a result of the denial of the proposed work;

b) A substantial decrease in financial return to the owners of record or other investors in the property as a result of the denial of the proposed work;

c) A substantial and significant additional cost to complete the proposed construction, alteration, relocation and/or demolition would be incurred to comply with the recommendations of the Committee for changes necessary for the issuance of a Certificate of Appropriateness;

d) The structural instability and a lack of sustainability for rehabilitation of any structure, object, or other improvement on the property;

e) A lack of economically feasible rehabilitation or adaptive use of the existing building, improvement, site, structure, or object; and/or

f) The retention of the resource will cause undue financial hardship to the owner of record or the applicant when a governmental action, an act of God, or other event beyond the owner’s control created the hardship, and all feasible alternatives to eliminate the economic hardship, which may include offering the resource for sale at its

fair market value or moving the resource to a vacant site within the historic district, have been attempted and exhausted by the owner of record and/or the applicant.

# Chapter 36. Zoning Regulations

## Sec. 36-1. General Provisions

### A. Title

This chapter shall be known and shall be cited as the "Zoning Regulations" of the City of Las Cruces, New Mexico.

### B. Purpose

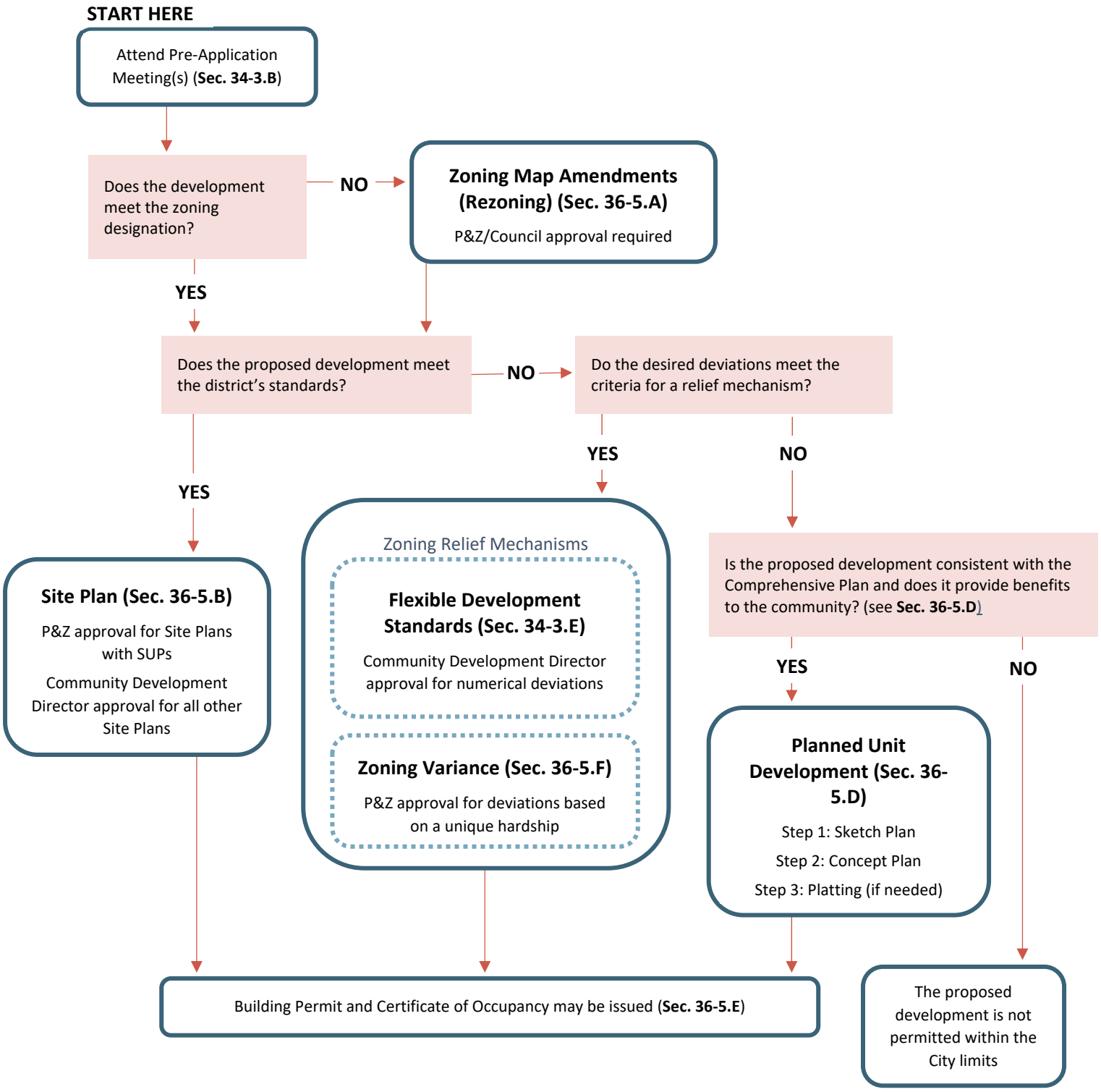
The purpose of these Zoning Regulations is to:

1. Ensure that all development is in accordance with this Code and the Comprehensive Plan;
2. Promote health, safety, and general welfare of the community;
3. Encourage innovations in land development and redevelopment that complement neighborhoods' existing character and support the consolidation of trips, and encourage bicycle, pedestrian, and transit modes of travel;
4. Regulate the erection, construction, alteration, repair, demolition, or use of buildings, structures, or land;
5. Control and abate the unlawful use of structures, buildings, or land;
6. Minimize adverse environmental impacts of development;
7. Reduce nuisances, such as noise, glare, and odor;
8. Encourage development of vacant properties within established areas; and
9. Conserve the value of buildings and land.

### C. Applicability

1. All land, buildings, structures, and appurtenances thereon located in the City that are hereafter occupied, used, erected, altered, or converted shall be used, placed, and erected in conformance with these Zoning Regulations.
2. The provisions of this Code shall be considered the minimum requirements or standards to meet the purpose and intent expressed in **B. Purpose** above.

## D. Zoning Process Overview



## Sec. 36-2. Zoning Districts

### A. Establishment of Zoning Districts, Map, and Boundaries

1. Designation of Official Districts

   The following shall be the official zoning districts:

   a) Zoning Districts

      i) NH-1, Neighborhood 1 District (Rural, Suburban, Urban)

      ii) NH-2, Neighborhood 2 District (Rural, Suburban, Urban)

      iii) NH-3, Neighborhood 3 District (Rural, Suburban, Urban)

      iv) CR, Commercial/Retail District (Rural, Suburban, Urban)

      v) LI, Light Industrial District (Rural, Suburban, Urban)

      vi) HI, Heavy Industrial District (Rural, Suburban, Urban)

      vii) OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban)

      viii) OS-2, Open Space-Drainage District (Rural, Suburban, Urban)

   b) Overlay Zoning Districts

      i) MXCO, Mixed Use Corridor Overlay District

      ii) TCO, Town Center Overlay District

      iii) NCO, Neighborhood Center Overlay District

      iv) AOD, Las Cruces International Airport Operations Overlay District

   c) Legacy Zoning Districts

      i) ADO, Alameda Depot Neighborhood Overlay District

      ii) LCIIP, Las Cruces Industrial Innovation and Industrial Overlay Zone District

      iii) SMO, South Mesquite Overlay District

      iv) UD, University District Overlay District

   d) Special Zoning Districts

      i) DDC, Downtown Development Code: See **E. DDC, Downtown Development Code** for applicable standards and procedures.

      ii) Historic Preservation District: See **Chapter 35. Historic Preservation** for applicable standards and procedures.

      iii) Planned Unit Developments (PUDs): See **Sec. 36-5.D. Planned Unit Developments (PUDs)** for applicable standards and procedures.

2. Zoning Map

   For the purpose of this Code, the City shall be divided into zoning districts, which shall be shown on the official Zoning Map.

3. Interpretation and Extension of District Boundaries

   Where uncertainty exists concerning the boundaries of any zoning district shown on the Zoning Map, the ordinance creating or changing a zoning district boundary shall be the governing document. The following rules shall apply if there is still uncertainty after reviewing the creating ordinance:

   a) Boundaries shall be construed as the centerline of existing, future, or vacated streets, highways, railroads, alleys, drainage or irrigation canals, other public rights-of-way, or un-zoned rights-of-way. The boundary extension of any zoning district shall be a projection of the property line and/or zoning district boundary line to the centerline of any applicable right-of-way centerline, regardless of the angle of intersection.

   b) Where property has been subdivided into blocks and lots, the boundaries shall be construed to be the lot line.

   c) Where property is not otherwise designated, divided, or subdivided, the boundary line shall be determined by the scaled distance shown on the Zoning Map.

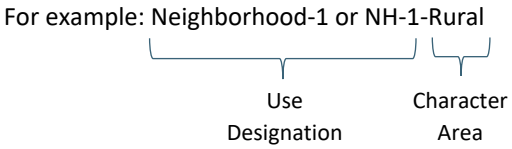
## B. Zoning Districts

1. Generally

   a) This section establishes zoning districts based on predominant use types. Each zoning district includes different permitted uses, as shown in **Figure 36-3-2. Permitted Use Chart**.

   b) These zoning districts include Character Areas. The purpose of the Character Areas is to implement the Comprehensive Plan's Future Development Map's Place Classifications: Rural, Suburban, and Urban. Each character area includes standards relating to site design, building form, and development character.

   c) Each zoning district includes both a use designation (e.g., "NH-1") and character area (e.g., "Rural"). This approach creates a menu of regulatory tools that both allows flexibility and promotes context-sensitive development.



2. Character Areas

a) Rural Character Area

The Rural Character Area describes land that is sparsely developed with significant areas of open space, including lands used for ranching, agriculture, or resource extraction. Rural places include lower-density residential development that offers residents relative seclusion from a more developed setting supported by public infrastructure. Substantial investment in public infrastructure to service more intense development patterns is not expected.

**Figure 36-2-1. Rural Character Area Example Illustrations**

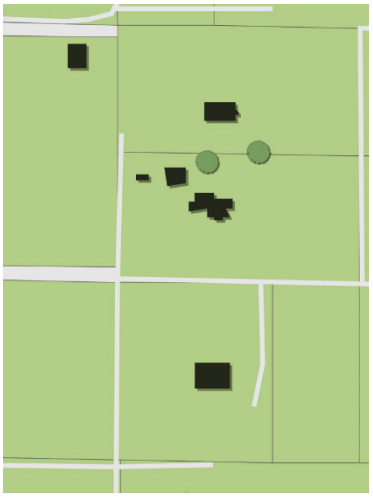
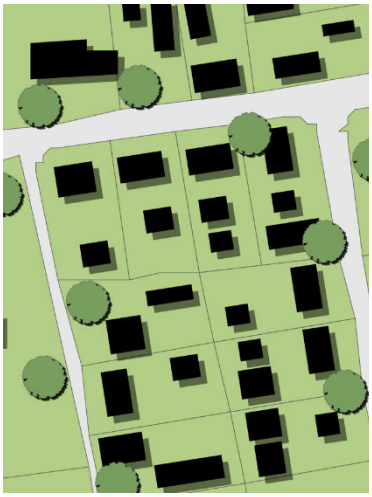
| NH-1-Rural | NH-2-Rural | NH-3-Rural |
|---|---|---|
|  |  |  |
| Low-intensity areas with large lots and primarily residential development | Low-intensity areas with large lots and residential development with compatible-scale neighborhood services | Low-intensity areas with large lots and a mix of residential and nonresidential development |

**Figure 36-2-2. Rural Character Area Standards**

| Streetscape | |
|---|---|
| Street Cross-Section | See **Sec. 38-2.C. Street Design Criteria** |
| Streetlights | See **Sec. 38-2.I. Streetlighting** |
| Sidewalks & Trails | See **Sec. 38-2.M. Sidewalks and Multi-Use Paths** |
| Street Trees | See **Sec. 38-7.D. Required Landscaping** |
| Connectivity | See **Sec. 38-2.E.5. Block Length** |
| **Site Design** | |
| Parking Treatment | See **Sec. 38-2.N.6. General Standards for Off-Street Vehicular Parking and Loading Areas**<br>Location-Specific Standard: Off-street parking is not required in the Urban Character Area; MXCO, Mixed Use Corridor Overlay District; TCO, Town Center Overlay District; NCO, Neighborhood Center Overlay District; or the DDC, Downtown Development Code area. |
| Transition Treatment | See **Sec. 38-8. Fencing, Screening, and Buffering** |

b) Suburban Character Area

The Suburban Character Area describes areas of contemporary development where land uses are dispersed among distinct residential neighborhoods, retail centers, office parks, and industrial uses. While development intensities may vary, suburban places favor segmented land uses with transitions between development types over the blending of differing uses in a single site. This character area may also support urban development patterns. These areas balance the needs of drivers, pedestrians, bicyclists, and other multi-modal users.

**Figure 36-2-3. Suburban Character Area Example Illustrations**

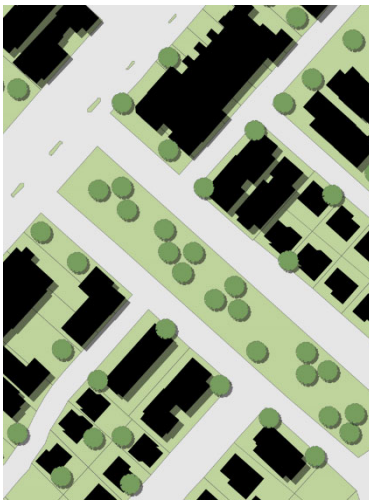
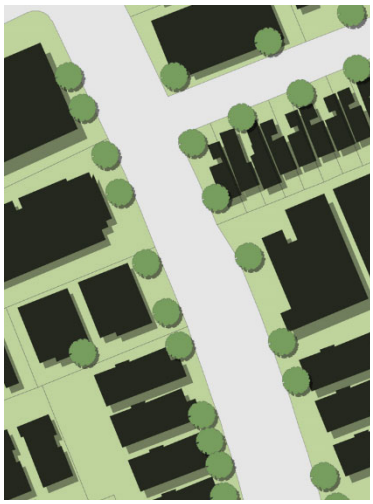
| NH-1-Suburban | NH-2-Suburban | NH-3-Suburban |
|---|---|---|
|  |  |  |
| Mid-intensity, suburban areas with primarily residential development | Mid-intensity, suburban areas with compatible-scale neighborhood services | Mid-intensity, suburban areas with a mix of residential and nonresidential development |

**Figure 36-2-4. Suburban Character Area Standards**

| Streetscape | |
|---|---|
| Street Cross-Section | See **Sec. 38-2.C. Street Design Criteria** |
| Streetlights | See **Sec. 38-2.I. Streetlighting** |
| Sidewalks & Trails | See **Sec. 38-2.M. Sidewalks and Multi-Use Paths** |
| Street Trees | See **Sec. 38-7.D. Required Landscaping** |
| Connectivity | See **Sec. 38-2.E.5. Block Length** |
| **Site Design** | |
| Parking Treatment | See **Sec. 38-2.N.6. General Standards for Off-Street Vehicular Parking and Loading Areas**<br>Character Area-Specific Standard: No more than 50 percent of off-street parking may be located between the front facade and the public right-of-way.<br>Location-Specific Standard: Off-street parking is not required in the Urban Character Area; MXCO, Mixed Use Corridor Overlay District; TCO, Town Center Overlay District; NCO, Neighborhood Center Overlay District; or the DDC, Downtown Development Code area. |
| Transition Treatment | See **Sec. 38-8. Fencing, Screening, and Buffering** |

c) Urban Character Area

The Urban Character Area describes areas including traditional downtowns and medium- to high-density center-city neighborhoods. Urban places blend a wide variety of land uses within individual districts, development sites, and buildings to promote compact development and walkable environments. These areas prioritize pedestrians, bicyclists, and other multi-modal users.

**Figure 36-2-5. Urban Character Area Example Illustrations**

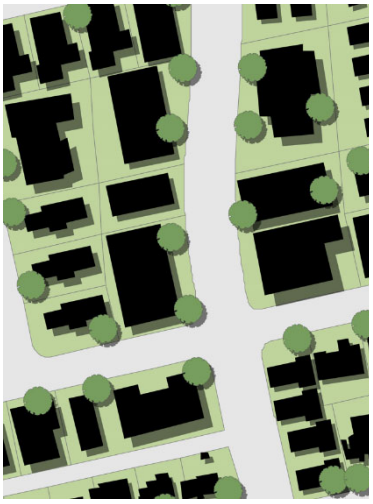
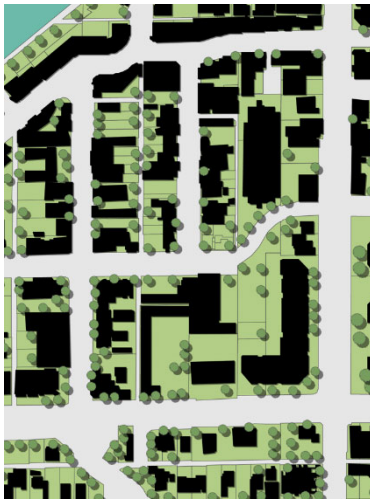
| NH-1-Urban | NH-2-Urban | NH-3-Urban |
|---|---|---|
|  |  |  |
| Highest-intensity neighborhoods with primarily residential development | Highest-intensity neighborhoods with compatible-scale neighborhood services | Highest-intensity neighborhoods with a mix of residential and nonresidential development |

**Figure 36-2-6. Urban Character Area Standards**

| Streetscape | |
|---|---|
| Street Cross-Section | See **Sec. 38-2.C. Street Design Criteria** |
| Streetlights | See **Sec. 38-2.I. Streetlighting** |
| Sidewalks & Trails | See **Sec. 38-2.M. Sidewalks and Multi-Use Paths** |
| Street Trees | See **Sec. 38-7.D. Required Landscaping** |
| Connectivity | See **Sec. 38-2.E.5. Block Length** |
| **Site Design** | |
| Parking Treatment | See **Sec. 38-2.N.6. General Standards for Off-Street Vehicular Parking and Loading Areas**<br>Character Area-Specific Standard: No off-street parking may be located between the front facade and the public right-of-way.<br>Location-Specific Standard: Off-street parking is not required in the Urban Character Area; MXCO, Mixed Use Corridor Overlay District; TCO, Town Center Overlay District; NCO, Neighborhood Center Overlay District; or the DDC, Downtown Development Code area. |
| Transition Treatment | See **Sec. 38-8. Fencing, Screening, and Buffering** |

3. NH-1, Neighborhood 1 District (Rural, Suburban, Urban)

The NH-1 District supports areas primarily used for housing, offering housing options that vary in intensity and density based on the character of the area. These options include low-density detached homes, mid-density options like cottage courts and townhomes, and high-density apartment and condominium developments. While nonresidential development is limited, the district offers a mix of neighborhood services and public and semi-public uses such as parks, schools, and places of worship to provide basic amenities and services to the community.

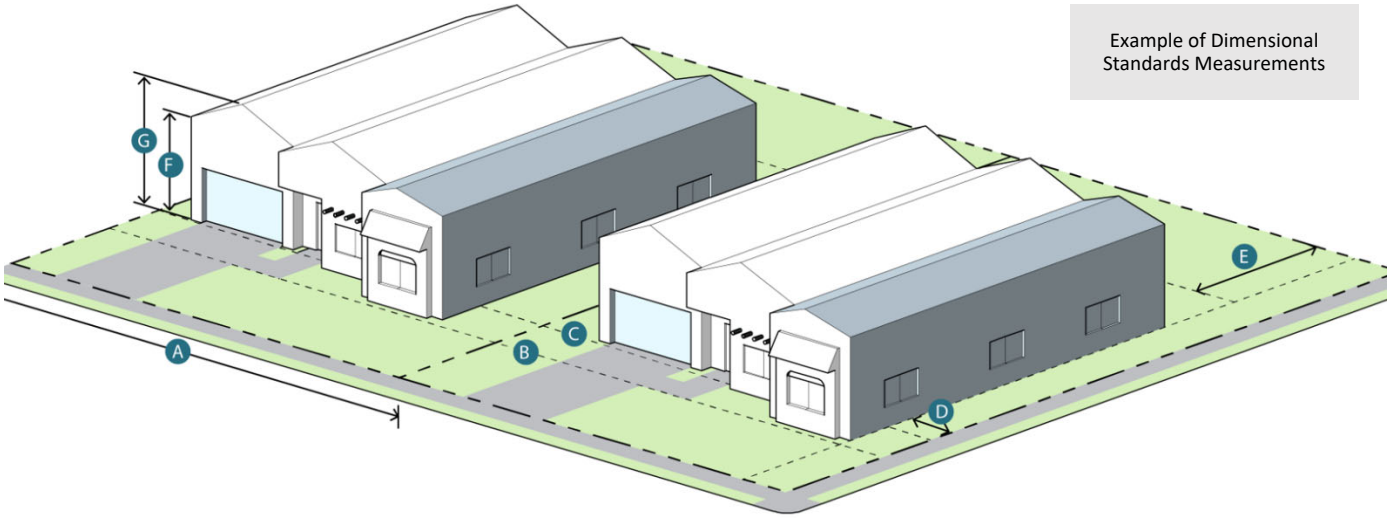



**Figure 36-2-7. NH-1 Density, Dimensions, and Primary Building Design Standards**

| | | NH-1-Rural | NH-1-Suburban | NH-1-Urban |
|---|---|---|---|---|
| | **DENSITY** | | | |
| | Residential Density (Max.)[1] | 1 DUA | 16 DUA | 40 DUA |
| | **DIMENSIONS** | | | |
| A | Lot Width (Min.) | 70’ | 40’ | 20’ |
| B | Front Setback (Min.)<br>Arterials/Collectors<br>Locals | <br>25’<br>20’ | <br>20’<br>15’ | <br>15’<br>12’ |
| C | Front Build-To Line[2]<br>Arterials/Collectors<br>Locals | N/A | N/A | <br>15’<br>12’ |
| D | Side Setback (Min.) | 15’ | 5’ | 0’ |
| E | Rear Setback (Min.) | 25’ | 15’ | 5’ *minimum separation of 10' for buildings on adjacent properties~~10’~~ |
| | Secondary Front Setback (Min.) | 20’ | 12’ | 5’ *out of clear site triangle |
| F | Ground Floor Height (Min.) | N/A | N/A | ~~12’ min. for buildings with 1-2 stories~~; 12~~16~~’ min for buildings with 3+ stories |
| G | Building Height (Max.) | 40’ | 50’ | 70’ |

| | NH-1-Rural | NH-1-Suburban | NH-1-Urban |
|---|---|---|---|
| Garage Front Setback (Min.) | 20’ | 20’ | 15~~12~~’ |
| Accessory Structures | See **Sec. 36-4.B.2. Accessory Structures**. | | |
| **PRIMARY BUILDING DESIGN** | | | |
| Architectural Definition | N/A | N/A | Buildings with 3+ stories shall incorporate a tripartite design with architecturally defined base, middle, and top levels |
| Glazing (Min. – Mixed-Use, Commercial, Or Office Uses Only) | N/A | N/A | Ground floor front facade(s): 50% min.<br>All other facades/floors: 20% min. |

[1]Excludes accessory dwellings.

[2]At least 50~~75~~% of the front facade shall be located in front of the Build-To Line~~.~~ or a designated area that is to remain active or passive open space along the front.

4. NH-2, Neighborhood 2 District (Rural, Suburban, Urban)

   The NH-2 District includes a harmonious mix of well-integrated and compatible land uses that seamlessly blend together. Conveniently located neighborhood services support a vibrant living experience, with both vertical and horizontal mixed use development. This district is designed to enable people to live, work, and play in a cohesive environment.

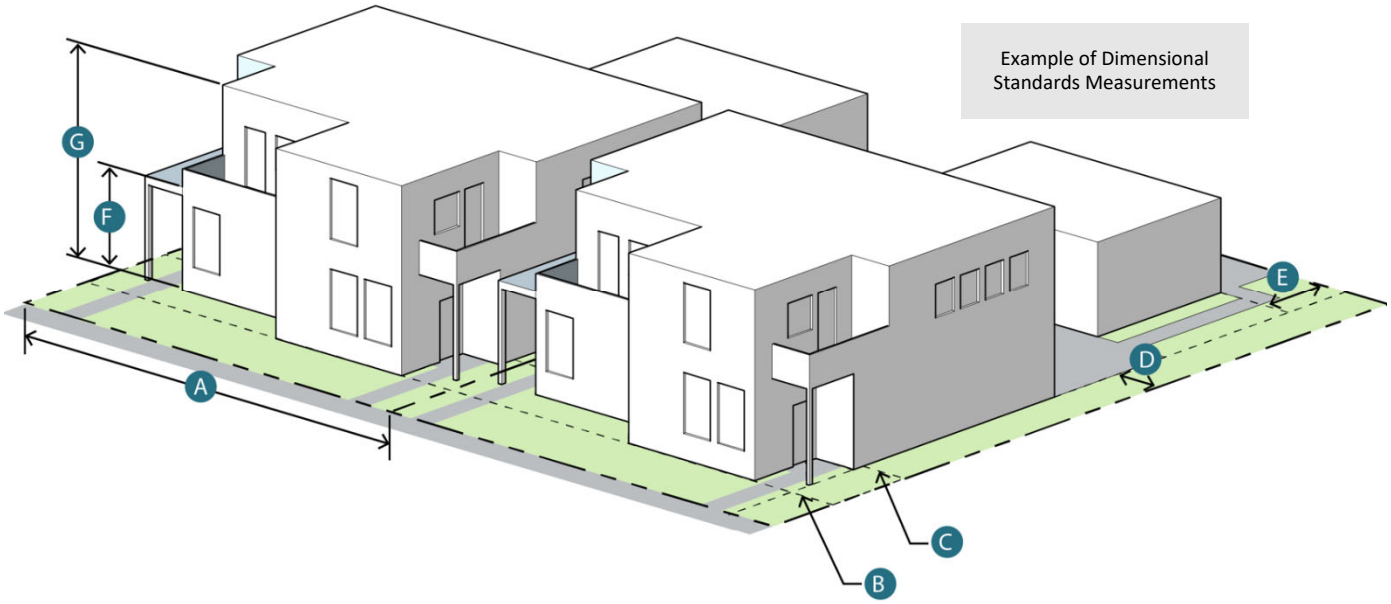



**Figure 36-2-8. NH-2 Density, Dimensions, and Primary Building Design Standards**

| | | NH-2-Rural | NH-2-Suburban | NH-2-Urban |
|---|---|---|---|---|
| | **DENSITY** | | | |
| | Residential Density (Max.)[1] | 2 DUA | 24 DUA | 50 DUA |
| | **DIMENSIONS** | | | |
| A | Lot Width (Min.) | 60’ | 35’ | 20’ |
| B | Front Setback (Min.)<br>Arterials/Collectors<br>Locals | <br>25’<br>20’ | <br>20’<br>15’ | <br>15’<br>12’ |
| C | Front Build-To Line[2]<br>Arterials/Collectors<br>Locals | N/A | N/A | <br>15’<br>12’ |
| D | Side Setback (Min.) | 15’ | 5’ | 0’ |
| E | Rear Setback (Min.) | 25’ | 15’ | ~~10’~~5’ *minimum separation of 10' for buildings on adjacent properties |
| | Secondary Front Setback (Min.) | 20’ | 12’ | 5’ *out of clear site triangle |
| F | Ground Floor Height (Min.) | N/A | N/A | ~~12’ min. for buildings with 1-2 stories;~~ 12~~16~~’ min for buildings with 3+ stories |
| G | Building Height (Max.) | 40’ | 50’ | 70’ |
| | Garage Front Setback (Min.) | 20’ | 20’ | 15~~2~~’ |
| | Accessory Structures | See **Sec. 36-4.B.2. Accessory Structures**. | | |

| | NH-2-Rural | NH-2-Suburban | NH-2-Urban |
|---|---|---|---|
| | | | |
| **PRIMARY BUILDING DESIGN** | | | |
| Architectural Definition | N/A | N/A | Buildings with 3+ stories shall incorporate a tripartite design with architecturally defined base, middle, and top levels |
| Glazing (Min. – Mixed-Use, Commercial, Or Office Uses Only) | N/A | N/A | Ground floor front facade(s): 50% min.<br>All other facades/floors: 20% min. |

[1]Excludes accessory dwellings.

[2]At least 75% of the front facade shall be located in front of the Build-To Line ~~-~~ . or a designated area that is to remain active or passive open space along the front.

5. NH-3, Neighborhood 3 District (Rural, Suburban, Urban)

   The NH-3 District is a transitional zone between residential and nonresidential areas that promotes interconnectivity and walkability within the district while ensuring compatibility with adjacent districts. Development intensity may vary throughout the site; the lowest intensities (e.g., larger lot size, increased setback, reduced height, residential uses) should be placed adjacent to a NH-1 or NH-2 District to ensure compatibility. Vertical mixed-use, retail, commercial, and office uses are appropriate in this district when appropriately integrated with nearby residential uses, ensuring that they complement and do not negatively impact the residential character of the adjacent districts. Intensive uses such as heavy commercial, industrial, and outdoor storage are not appropriate in this district.




**Figure 36-2-9. NH-3 Density, Dimensions, and Building Design Standards**

| | | NH-3-Rural | NH-3-Suburban | NH-3-Urban |
|---|---|---|---|---|
| **DENSITY** | | | | |
| | Residential Density (Max.)[1] | 4 DUA | 30 DUA | 60 DUA |
| **DIMENSIONS** | | | | |
| A | Lot Width (Min.) | 50’ | 30’ | 20’ |
| B | Front Setback (Min.)<br>Arterials/Collectors<br>Locals | <br>25’<br>20’ | <br>20’<br>15’ | <br>15’<br>12’ |
| C | Front Build-To Line[2]<br>Arterials/Collectors,<br>Locals | N/A | N/A | <br>15’<br>12’ |

| | NH-3-Rural | NH-3-Suburban | NH-3-Urban |
|---|---|---|---|
| E Side Setback (Min.) | 15’ | 5’ | 0’ |
| F Rear Setback (Min.) | 20’ | 10’ | 5’ *minimum separation of 10' for buildings on adjacent properties |
| Secondary Front Setback (Min.) | 15’ | 12’ | 5’ *out of clear site triangle |
| G Ground Floor Height (Min.) | N/A | N/A | ~~12’ min. for buildings with 1-2 stories; 16’~~12’ min for buildings with 3+ stories |
| H Building Height (Max.) | 40’ | 50’ | 70’ |
| Accessory Structures | See **Sec. 36-4.B.2. Accessory Structures**. | | |
| **PRIMARY BUILDING DESIGN** | | | |
| Architectural Definition | N/A | N/A | Buildings with 3+ stories shall incorporate a tripartite design with architecturally defined base, middle, and top levels |
| Glazing (Min. – Mixed-Use, Commercial, Or Office Uses Only) | N/A | N/A | Ground floor front facade(s): 50% min.<br>All other facades/floors: 20% min. |
| Garage | 20’ | 20’ | 15’ |

[1]Excludes accessory dwellings.

[2]At least 75% of the front facade shall be located between the Build-To Line~~.~~ . or a designated area that is to remain active or passive open space along the front.

6. CR, Commercial/Retail District (Rural, Suburban, Urban)

   The CR, Commercial/Retail District (Rural, Suburban, Urban) provides a wide range of commercial uses at various scales to serve residents and attract regional customers. This district specifically:

   a) Accommodates commercial, retail, office, and related nonresidential uses.

   b) Provides a system of convenient pedestrian and bicycle facilities to ensure connectivity between parking, adjacent streets, and all on-site facilities.

   c) Utilizes landscape areas of water-wise plantings along site frontages, within parking areas, and adjacent to public gathering areas to create aesthetically appealing commercial development.

   d) Mitigates intensive commercial development impacts through green infrastructure design, including xeriscaping and bioretention features.

   e) Promotes commercial development that manages vehicular access through consolidated curb cuts, cross-access easements, and driveway throat length.

   f) Provides uniform architectural styles and design features to foster holistic, attractive commercial development.

   g) Includes design standards for nonresidential buildings that fit the character of the surrounding community.

7. LI, Light Industrial District (Rural, Suburban, Urban)

   The LI, Light Industrial District (Rural, Suburban, Urban) provides for light industrial uses within a business/industrial park setting. Development intensity is low, with a focus on high-quality design and amenities. This district encourages uses that accommodate light industrial activities with secondary limited retail and service uses. This district specifically:

   a) Encourages industrial development in areas not directly adjacent to neighborhoods.

   b) Promotes industrial development to take direct access from Freeways, Principal Arterial, or Minor Arterial thoroughfares.

   c) Locates allowed land uses away from sensitive environmental areas.

8. HI, Heavy Industrial District (Rural, Suburban, Urban)

   The HI, Heavy Industrial District (Rural, Suburban, Urban) provides for the development of intensive industrial uses that generate significant development impacts. This district does not support secondary retail and commercial uses. This district specifically:

   a) Locates industrial development away from neighborhoods and commercial developments.

   b) Requires industrial development to take direct access from Freeways or Principal Arterial thoroughfares.

   c) Locates allowed land uses away from sensitive environmental areas.

9. OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban)

   a) The OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban) is intended to preserve, protect, and enhance areas set aside for parks, recreation, and open space. This district specifically:

      i) Allows both public and private lands to serve as areas providing passive recreational opportunities in a natural setting.

      ii) Protects, preserves, and/or restores natural resources and open spaces such as areas of undisturbed native vegetation, arroyos, and major land features when development within these areas would be detrimental to the health, safety, and general welfare of City residents.

      iii) Establishes buffer areas that are aimed at mitigating issues involving potentially incompatible land uses.

b) Application of the OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban) to private land requires the express written consent of the property owner(s).

10. OS-2, Open Space-Drainage District (Rural, Suburban, Urban)

The OS-2, Open Space-Drainage District (Rural, Suburban, Urban) is intended to provide for drainage areas or facilities, typically owned by or dedicated to the City.

**Figure 36-2-10. Dimensional Standards**

| | CR | LI | HI | OS-1 | OS-2 |
|---|---|---|---|---|---|
| **LOT STANDARDS** | | | | | |
| Lot Width (Min.) | 60’ | 60’ | 60’ | N/A | N/A |
| Lot Depth (Min.) | 70’ | 70’ | 70’ | N/A | N/A |
| **PRIMARY BUILDING SETBACKS** | | | | | |
| Front (Min.) | 15’ | 15’ | 15’ | N/A | N/A |
| Side (Min.) | 0’ | 0’ | 0’ | N/A | N/A |
| Rear (Min.) | 0’ | 0’ | 0’ | N/A | N/A |
| Rear – Alley (Min.) | 15’ | 0’ | 0’ | N/A | N/A |
| **BUILDING STANDARDS** | | | | | |
| Building Height (Max.) | 60’ | 60’ | 60’ | N/A | N/A |

Note: Zero lot line development shall meet all adopted building and fire codes.

## C. Overlay Zoning Districts

1. Overlay Zoning Districts

   As overlay districts, these standards apply in addition to a base zoning district's standards unless otherwise stated. The following is a list of the overlay zoning districts described in this subsection:

   a) MXCO, Mixed Use Corridor Overlay District

   b) TCO, Town Center Overlay District

   c) NCO, Neighborhood Center Overlay District

   d) AOD, Las Cruces International Airport Operations Overlay District

2. MXCO, Mixed Use Corridor Overlay District

   The MXCO is intended to implement the Comprehensive Plan's Mixed Use Corridor Place Type Overlay. Mixed Use Corridors support a mix of residential and nonresidential land uses along roadway or trail corridors. Mixed Use Corridors mimic the built environment of a central business district or other mixed-use activity center by combining residential and nonresidential land uses within buildings or on shared parcels but arranges such uses in a linear manner along established thoroughfares. Land uses are prescribed by the underlying base district; however, typical land uses include retail businesses, commercial services, professional offices, multi-family residential, and limited single-family residential.

   In addition to the uses permitted in the underlying base district by **Sec. 36-3.B. Use Classifications and Use-Based Standards**, the following uses are permitted by-right in the MXCO:

   a) Multi-Family Dwelling (if Multi-Family Dwelling is not permitted in the base district, then density shall be based on NH-3)

   The MXCO is an optional overlay, meaning an applicant within the district may choose to use all of the standards prescribed by this section, or they may choose to use the base district's standards. Within the MXCO, an applicant may choose to combine the MXCO with the NCO to achieve more flexible standards. A property owner may request to become part of the MXCO if the property is adjacent to the existing overlay.

3. TCO, Town Center Overlay District

   The TCO is intended to implement the Comprehensive Plan's Town Center Place Type Overlay. Town Centers include a mix of residential and nonresidential land uses that collectively create a vibrant and walkable activity center. Town Centers support institutional, cultural, employment, shopping, and entertainment uses while also providing high-density residential living options to create an energized environment to live, work, and play. Land uses are prescribed by the underlying base district; however, typical land uses include retail businesses, commercial services, professional offices, multi-family residential, and limited single-family residential.

   The TCO is an optional overlay, meaning an applicant within the district may choose to use all of the standards prescribed by this section, or they may choose to use the base district's standards. A property owner may request to become part of the TCO if the property is adjacent to the existing overlay.

4. NCO, Neighborhood Center Overlay District

   The NCO is intended to implement the Comprehensive Plan's Neighborhood Center Place Type Overlay. Neighborhood Centers include a mix of residential and nonresidential land uses that provide nodes of community activity for surrounding residential neighborhoods. These walkable activity centers provide local employment, shopping, and entertainment opportunities. Neighborhood Centers are located at key neighborhood intersections, and can be used to provide a transition between single-family residential neighborhoods and areas of higher development intensity.

   Only the following uses are permitted in the NCO, including any use-based standards established by **Sec. 36-3.B. Use Classifications and Use-Based Standards**:

a) Walk-Up Window

b) Child Care Center

c) Community Building or Banquet Center

d) Indoor Entertainment

e) Art Studio or Instruction

f) Grocery (Local)

g) Personal Services

h) Retail Store (Local)

i) Bar

j) Cafe

k) Restaurant

l) Tap Room or Tasting Room

The NCO is an optional overlay, meaning an applicant within the district may choose to use all of the standards prescribed by this section, or they may choose to use the base district's standards. A property owner may request to become part of the NCO if the property is adjacent to the existing overlay.

**Figure 36-2-11. MXCO, TCO, and NCO District Density, Dimensions, and Primary Building Design Standards**

| | MXCO, Mixed Use Corridor Overlay District | TCO, Town Center Overlay District | NCO, Neighborhood Center Overlay District |
|---|---|---|---|
| DENSITY | | | |
| Residential Density Range (Min./Max.)[1, 2] | 75% / 150% of the base district DUA | 75% / 150% of the base district DUA | N/A |
| DIMENSIONS | | | |
| Setbacks (Min.)<br>Front<br>Side<br>Rear | <br>12'<br>0'<br>As established by the base district | <br>12'<br>0'<br>As established by the base district | <br>12'<br>0'<br>As established by the base district |
| Front Build-To Line[3]<br>Arterials/Collectors/Boulevards<br>Locals/Avenues | <br>20'<br>15' | <br>20'<br>15' | <br>20'<br>15' |
| PRIMARY BUILDING DESIGN | | | |
| Building Height (~~Min. and~~ Max.) | 5 stories | | Buildings shall not exceed the maximum building height of the base district by more than 15' |
| Facade Delineation | Changes in building elements (e.g., canopies, balconies, awnings, materials, offsets) shall delineate between adjacent buildings and storefronts and to distinguish ground-floor space from upper stories. Buildings with 3+ stories shall incorporate a tripartite design with architecturally defined base, middle, and top levels. | | |
| Glazing of Nonresidential Facades (Min.) | Ground floor front facade(s): 50% min.<br>All other facades/floors: 20% min. | | Ground floor front facade(s): 35% min.<br>All other facades/floors: 20% min. |
| | Numerous smaller openings rather than a few large ones shall be provided along these facades in the accomplishment of this provision. Reflective, translucent, or opaque glass is prohibited. | | |

| | MXCO, Mixed Use Corridor Overlay District | TCO, Town Center Overlay District | NCO, Neighborhood Center Overlay District |
|---|---|---|---|
| Architectural Elements | See **Sec. 36-4.C. Nonresidential, Mixed-Use, and Multi-Family Development**, subsection **5. Architectural Features**, | | |
| SITE DESIGN STANDARDS | | | |
| Street Design | New development shall use the Boulevard and Avenue cross-sections (see **Sec. 38-2.C. Street Design Criteria**). Redevelopment shall incorporate principles from these cross-sections as determined by the Development Review Committee. | | NCOs shall not be located on Local Streets, except at an intersection with a Boulevard, Avenue, or larger facility. |
| Parking | No off-street parking may be located between the front facade and the public right-of-way.<br>See parking reduction provisions in **Sec. 38-2.N.4. Minimum Off-Street Vehicular Parking Requirements**. | | |
| Pedestrian Environment | Pedestrian areas adjacent to the buildings shall incorporate features to promote a walkable environment, such as seats, benches, shade trees, awnings, and arcades. Where awnings are used, they should be metal or an equivalent durable material. | | |
| Signs | See **Figure 38-10-5. Permitted Sign Locations and Standards** in **Sec. 38-10. Signs**. | | |

[1] Excludes any accessory dwellings.

[2] An applicant must pick one overlay to use. Overlays cannot overlap to compound the density bonus.

[3] At least 75% of the front facade shall be located in front of the Build-To Line.

5. AOD, Las Cruces International Airport Operations Overlay District

   a) Purpose

      The purpose of the Las Cruces International Airport Operations Overlay District is to protect the operations of the Las Cruces International Airport ("Airport") from encroachment of land uses that could inhibit or restrict present airport operations or negatively affect the future growth and operation of the airport. Since the boundaries associated with this district are dependent upon the physical boundaries of specific airport features, the boundaries shall change as necessary with respect to any changes in these features.

   b) AOD Boundary

      The boundaries of this district are shown in **Figure 36-2-12. Las Cruces International Airport Operations Overlay District (AOD)**.

   c) Restrictions

      No residential uses shall be allowed within AOD unless the following requirements are met. These requirements are necessary to mitigate the encroachment of land uses that could inhibit or restrict present airport operations or negatively affect the future growth of the airport.

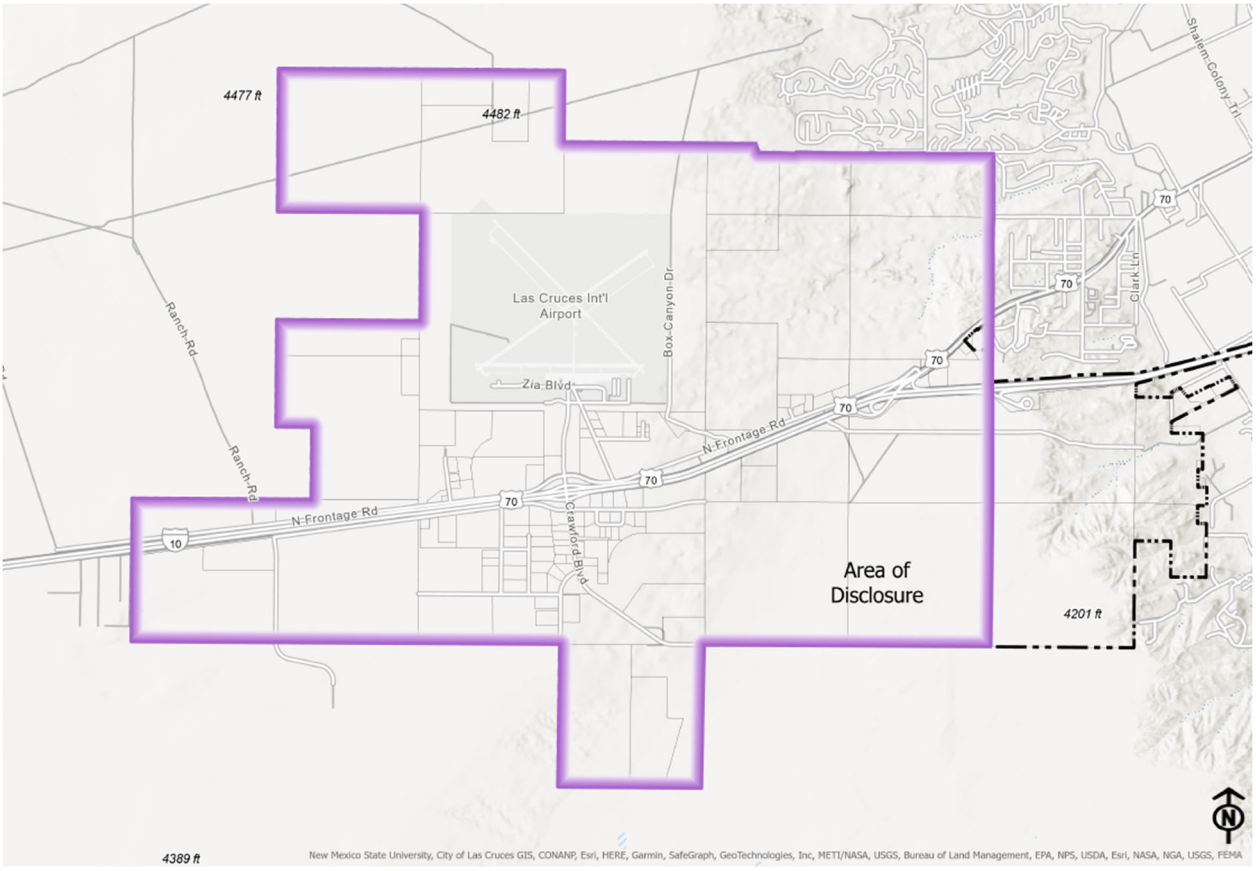
      i) No use may be made of land, water, or electrical power within any zone (includes approach, horizontal, conical, and transitional zones) in such a manner as to create electrical interference with navigational signals or radio communication between airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport.

      ii) No structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone to a height in excess of applicable height limits established by that zone (including approach, horizontal, conical, and transitional zones).

      iii) Effective on the date of this overlay approval, all land subdivisions within the area of disclosure shall require disclosure of the land's proximity to the airport by any person or entity subdividing land within this area. Disclosure of this information shall be required on the final subdivision plat to be recorded with the County Clerk’s Office.

   d) Development Process. Development within the area of disclosure shall be subject to review and approval by the Airport Manager and shall adhere to all applicable restrictions stated and outlined in F.A.R. Part 77 (Height Restrictions) and F.A.R. Part 150 (Noise and Land Use Compatibility) as amended. The Airport Manager shall distribute the approved plans to the appropriate entity for permitting.

**Figure 36-2-12. Las Cruces International Airport Operations Overlay District (AOD)**



## D. Legacy Zoning Districts

1. Legacy zoning districts are previously existing zoning districts that have been preserved within the Development Code but will not be applied to new land. The following is a list of the legacy zoning districts described in this subsection:

   a) ADO, Alameda Depot Neighborhood Overlay District

   b) LCIIP, Las Cruces Industrial Innovation and Industrial Overlay Zone District

   c) SMO, South Mesquite Overlay District

   d) UD, University District Overlay District

2. ADO, Alameda Depot Neighborhood Overlay District

   a) Purpose. The Alameda Depot neighborhood, with its rich history, diverse architecture and peaceful environment, is an important part of Las Cruces life. The purpose of the Alameda Depot Neighborhood Overlay (ADO) is to implement the policies that were established in the Alameda Depot Neighborhood Plan. As it is impacted by changes in downtown and surrounding neighborhoods, residents and property owners want to protect the characteristics that make the Alameda Depot neighborhood special. Specific provisions in this overlay provide greater flexibility for historic properties and address such things as such as setbacks, land uses, parking and changes to structures that predate the creation of development standards. The Alameda Depot Overlay contains a state historic district and a national historic district, but the neighborhood has not been designated a local historic district, and will be exempt from any future local historic district ordinances should they be adopted by the city.

   b) Applicability.

      i) Introduction. This overlay applies to all properties within the Alameda Depot neighborhood boundaries. These properties have been categorized into six sub-areas, and have been given new zoning designations based on the distinct characteristics of each (see **c)** below). The overlay shall be used to regulate development standards, land uses, design of new streets, new buildings, and new public spaces.

      ii) Terms. The provisions of this overlay are activated by "shall" when required; "should" when recommended; and "may" when optional. Technical terms used throughout this section may be defined in **d)** below. Those terms not defined in **d)** below shall be accorded their commonly accepted meanings or as defined in **Sec. 34-5. Definitions**. In the event of conflicts between these definitions and the provisions herein stated, the Community Development Director shall have the authority pursuant to **Sec. 34-1.I. Interpretations** and **Sec. 34-1.J. Conflicting Provisions** to determine which will be imposed.

      iii) Diagrams and illustrations. Diagrams and illustrations are an integral part of this overlay and are used to help explain standards and guidelines. The diagrams and illustrations are for illustrative purposes only. When in conflict, written text shall take precedence over diagrams and illustrations.

   c) Delineation of overlay. The Alameda Depot Overlay District shall include all properties noted on the associated map (**Figure 36-2-13**). Within the overlay, six distinct zones shall be established: ADO-1, the Alameda Corridor; ADO-2, the Griggs/Organ Corridor; ADO-3, the North and South Residential Cores; ADO-4, the Picacho Corridor; ADO-5, Amador Corridor; and ADO-6, the Railroad Corridor. Description of overlay zones:

      i) ADO-1, the Alameda Corridor: Uses in ADO-1 include single-family residential, multifamily residential, low-intensity office and commercial uses, and public/institutional uses that generate relatively little traffic or parking demand. The residential and historic character of the neighborhood shall be retained as closely as possible.

      ii) ADO-2, the Griggs/Organ Corridor: Uses in ADO-2 include single-family residential, multifamily residential, low-intensity office and commercial uses, and public/institutional uses that generate relatively little traffic or parking demand. The residential and historic character of the neighborhood shall be retained as closely as possible.

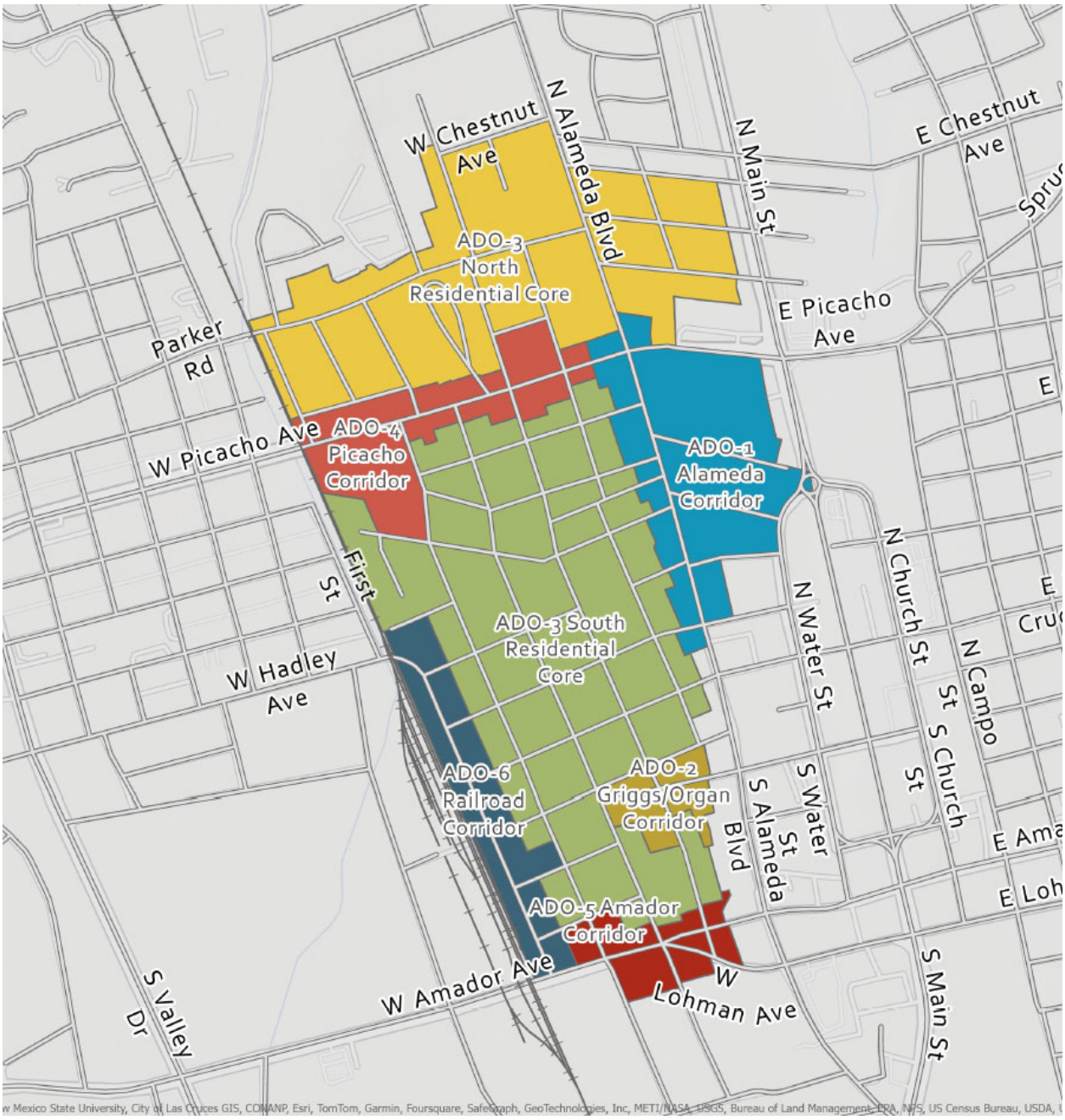
iii) ADO-3 the North and South Residential Cores: ADO-3, the Residential Core, is intended to accommodate primarily detached single-family dwelling units, with or without secondary residences, to maintain and protect a low-density residential character of development, and to maintain the historic appearance of this central area of the neighborhood as closely as possible.

iv) ADO-4, the Picacho Corridor: Uses in ADO-4 include single-family residential, multifamily residential, and low- and medium-intensity office and commercial uses. The residential and historic character of the neighborhood shall be retained as closely as possible. All office and commercial uses are intended to serve as transition zones between higher-intensity uses on Picacho Avenue and the predominantly residential uses of the neighborhood.

v) ADO-5, Amador Corridor: Uses in ADO-5 include single-family residential, multifamily residential, and low- and medium-intensity office and commercial uses. The residential and historic character of the neighborhood shall be retained as closely as possible. All office and commercial uses are intended to serve as transition zones between higher intensity uses on Amador Avenue and adjacent to the DDC, Downtown Development Code and the predominantly residential uses of the neighborhood.

vi) ADO-6, the Railroad Corridor: ADO-6, the Mesilla Street/Railroad Track Corridor, is intended to exist as a mixed-use environment allowing low-intensity manufacturing, low- and medium-intensity office and commercial, and limited residential uses. Residential uses must be part of a mixed-use development. Residential uses existing at the time of adoption of this overlay that are not a part of a mixed-use development are considered legally nonconforming, and shall adhere to the nonconforming use provisions stated below in **h)** below, with the exception of **h)i)a** below. These uses are not subject to the one-year vacancy limit.

**Figure 36-2-13. Alameda Depot Overlay (ADO) Boundaries**



d) Definitions. Definitions are in addition to those noted in **Sec. 34-5. Definitions**:

*Accessory dwelling unit:* A self-contained living quarter containing independent kitchen (cooking/culinary) facilities attached to and under the same roof as the main dwelling, created by: The conversion of an existing single-family dwelling; or the addition to an existing single-family dwelling; or the incorporation of applicable areas into a new single-family dwelling design which is subsequently constructed. (also see #19 Accessory Dwelling in **Sec. 36-3.B**).

*Accessory use or structure:* A subordinate use or structure, the use of which is incidental to and customarily found in connection with the principal dwelling on the same property. Examples: Gazebo, greenhouse, tool shed, detached garage, guest dwelling, swimming pool, tennis court, barn, and flagpole (also see **Sec. 36-4.B.2 Accessory Structures**).

*Brew-pub:* A brew-pub is a microbrewery that serves food or is combined with a pub. A microbrewery, or craft brewery, is a brewery that produces a limited amount of beer. The maximum amount of beer a brewery can produce and still be classed as a microbrewery in New Mexico is less than or equal to 200,000 barrels a year, according to the New Mexico Alcohol and Gaming Division.

*Downtown Development Code (DDC)):* All properties with zoning designation of DDC, Downtown Development Code.

*Compatible:* Capable of existing together in harmony. Parts of a whole that work well together when pieced together.

*Consistent:* That which is similar to, or nearly the same.

*Contributing property:* A property, structure, or object that adds to the historical integrity or architectural qualities that make the historic area significant. In general, a contributing property is key to a historic district's historic associations, historic architectural qualities, or archaeological qualities. (A list of contributing properties in the Alameda Depot Neighborhood Overlay is available from the community development department.)

*Demolition:* An act that destroys or removes in whole or in part of the exterior of a building or structure on a property.

*Dwelling, above ground floor:* Dwelling unit(s) located above ground floor office or commercial uses.

*Facade:* Any exterior wall of a structure.

*Guest dwelling:* A detached or attached dwelling to be used for temporary occupancy only and is not to be rented or leased. A guest dwelling shall be no more than 50 percent of the main dwelling's heated/cooled square footage and shall not contain a kitchen (also see #19 Accessory Dwelling in **Sec. 36-3.B**).

*Historic:* Structures/buildings deemed historic are those listed as contributing on the federal and/or state historic registers.

*Historic district:* Area in which historic buildings and their settings are protected by public review. Historic districts comprise the city's significant historic and architectural resources. Inclusion in a historic district signifies that a property contributes to an ensemble that is worth protecting by virtue of its historic importance or architectural quality.

*LCMC:* Most current edition of the Las Cruces Municipal Code.

*Live/work unit:* A building that may be used flexibly for living and working in the same building. A variety of uses in the buildings is encouraged. Dwelling units may be located above the ground floor, attached to the rear of a shop front, or detached and located in the rear or side yard. Work is of a commercial nature subject to business registration requirements and not a home occupation.

*Manufactured home:* A manufactured or modular home that is a single-family dwelling with a heated area of at least 36 feet by 24 feet and at least 864 square feet and constructed in a factory to the standards of the United States Department of Housing and Urban Development, the National Manufactured Housing

Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 or the Uniform Building Code, as amended to the date of the unit's construction, and installed consistent with the Manufactured Housing Act and with the regulations made pursuant to that Act. (#3 Manufactured Home in **Sec. 36-3.B**).

*Mixed-use:* For the purposes of this overlay, the term refers to the practice of allowing more than one type of land use category (i.e., residential, office, or commercial, etc.) in a single building or set of buildings located on a single parcel. Condominium maps created and filed showing distinct sub-lots on an otherwise single parcel shall be considered as a single parcel for purposes herein stated.

*Mobile home:* A moveable or portable housing structure larger than 40 feet in body length, eight feet in width or 11 feet in overall height, designed for and occupied by no more than one family for living and sleeping purposes, but does not include structures built to the standards of any municipal building code and other technical codes. (#6 Mobile Home in **Sec. 36-3.B**).

*National Historic District:* An area that the U.S. Government designates as historically important through the U.S. Department of Interior, under the auspices of the National Park Service. Federally designated historic districts are listed on the National Register of Historic Places. The Alameda Depot Neighborhood Overlay contains a National Historic District.

*Outdoor plaza or space:* A generally open area that may be used for active or passive purposes by one or more businesses and the public visiting the location. An example may include an outdoor seating area for a cafe or restaurant, outdoor sales and service, a landscaped plaza serving as open space for patrons and visitors alike, etc.

*Overlay and special zoning district:* Synonymous terms used to define boundaries around an area that has a set of unique or unusual characteristics. Overlays and special zoning districts have a special purpose as defined in an accompanying plan, and may alter general residential, office, commercial or industrial zoning districts or replace them entirely.

*Performing arts center:* A multi-use performance facility that is intended for use by various types of the performing arts, including dance, music, and theatre.

*Secondary residence:* A dwelling unit that is subordinate in size and location to the main dwelling on a single property, and may be rented or leased as an independent dwelling unit. A secondary residence is different from a guest dwelling or accessory structure in that it is distinct dwelling unit containing a kitchen. Examples include a traditional guest house, apartment, cottage, or converted garage.

*State historic district:* An area that is designated by the state as historically important and which follows criteria similar to the federal standards. State listings can have similar benefits to federal designation, such as qualification for grants and tax incentives. Designation of a district is through a review process at the state historic preservation office. New Mexico's Register of Historic Places lists districts and individual properties. The Alameda Depot Neighborhood Overlay contains a state historic district.

*Step-back:* In buildings with multiple stories, a reduction in the footprint of each level located successively farther from the ground. Step-backs prevent a "canyon effect," which deprives neighboring properties of sun light, and ensure that streets and yards are provided adequate light and air. In addition, they create articulation and a sense of vertical rhythm in the architecture. The space created by a step-back may be used for terraces, gardens, outdoor seating, etc.

*Structure:* That which is built or constructed, an edifice or building of any kind, or any place of work artificially built up or composed of parts joined together in some definite manner.

*Traditional guest house:* A type of secondary residence with kitchen facilities found in the Alameda Depot neighborhood as a result of adaptive reuse of existing structures on the same parcel as the primary dwelling. Historically, these units were converted from nonresidential uses, such as a coach house.

e) Permitted uses.

i) Land uses in ADO-1, the Alameda Corridor; ADO-2, the Griggs/Organ Corridor; ADO-4, the Picacho Corridor; ADO-5, Amador Corridor; and ADO-6, the Railroad Corridor shall follow **Figure 36-2-14. ADO Permitted Use Chart** below.

ii) Uses in ADO-3, the North and South Residential Cores, shall be in accordance with the underlying zoning as designated in **Figure 36-3-2. Permitted Use Chart**.

iii) Land use definitions. Unless otherwise stated, land uses are as follows:

a. *Residential:* Low- and medium-density residential uses in the Alameda Depot Neighborhood Overlay are intended to accommodate single-family site built/manufactured dwelling units, including patio homes and townhouses, and multifamily dwellings up to 20 per acre, with no more than four attached units each.

b. *Low-intensity office:* These office uses are small-scale and provide low-intensity service activities. No goods or merchandise are prepared or sold on the premises with the exception of those activities that serve the primary use. Access to streets that are a major local or higher designation is recommended.

c. *Low-intensity commercial:* Low-intensity commercial uses are those that generate small-scale retail and service activities within a neighborhood area.

d. *Medium-intensity commercial*: Medium-intensity commercial areas facilitate and encourage development of those uses that provide retail and service activities as a convenience to the general public.

e. *Public/institutional:* These are uses dedicated to public or nonprofit service, such as schools, religious institutions, government and quasi-governmental agencies, libraries, etc.

f. *Low-intensity industrial:* Low-intensity industrial uses are those that accommodate a wide variety of light manufacturing, commercial, processing, storage, packaging, compounding, wholesaling and distribution operations. Such uses shall be constructed and operated to ensure that there is: 1) no activity producing noise, glare, or heat observable or measurable outside the building; 2) no emission of objectionable dust, fumes, odors, vapors, gases, smoke, or other forms of air pollution; 3) no vibration which is discernible beyond the property lines to the human sense of feeling for three minutes or more duration in any one hour of a day.

**Figure 36-2-14. ADO Permitted Use Chart**

| a) RESIDENTIAL USES | ADO-1<br>ADO-2 | ADO-4<br>ADO-5 | ADO-6 | CONDITIONS |
|---|---|---|---|---|
| Assisted Living or Retirement Facility | C | C | NP | Use shall be located on a collector or higher designated roadway. |
| Bed and Breakfast | C | C | NP | See #64 Bed and Breakfast in **Sec. 36-3.B** |
| Boarding House | A | A | NP | |
| Dwelling Unit, including:<br>Accessory Dwelling Unit<br>Apartments<br>Detached Site Built Single Family DU (incl. manufactured homes)<br>Duplex, Triplex, etc.<br>Dwelling, Live-Work<br>Guest Dwelling<br>Patio Homes<br>Townhouse (Attached Single Family DU)<br>Secondary Residences | A | A | C | In ADO-6, residential uses are intended to be multi-family and must be part of a live/work or multi-use development project. Project must be no more than 50% residential. |
| Fraternity/Sorority House | A | A | NP | |
| Halfway House | S | S | NP | |
| Home for Disabled | A | A | NP | |

| a) RESIDENTIAL USES | ADO-1 ADO-2 | ADO-4 ADO-5 | ADO-6 | CONDITIONS |
|---|---|---|---|---|
| Nursing Home | C | C | NP | Use shall be located on a collector or higher designated roadway. |
| Temporary/Homeless Shelter | A | A | NP | |
| A = Allowed C = Conditional S = Special Use Permit NP = Not Permitted | | | | |

| b) RESIDENTIAL RELATED USES | ADO-1 ADO-2 | ADO-4 ADO-5 | ADO-6 | CONDITIONS |
|---|---|---|---|---|
| Accessory Uses & Structures | C | C | C | See #Sec. 36-4.B.2 Accessory Structures in **Sec. 36-3.B** |
| Greenhouse (Noncommercial), Garden Shed, Tool Shed | C | C | C | See #Sec. 36-4.B.2 Accessory Structures in **Sec. 36-3.B** |
| Recreational Court, Tennis, etc., Private | C | C | C | See #Sec. 36-4.B.2 Accessory Structures in **Sec. 36-3.B** |
| A = Allowed C = Conditional S = Special Use Permit NP = Not Permitted | | | | |

| c) RECREATIONAL USES | ADO-1 ADO-2 | ADO-4 ADO-5 | ADO-6 | CONDITIONS |
|---|---|---|---|---|
| Health/Exercise Club/Gymnasium/Sports Institution | NP | A | A | |
| Park | A | A | A | |
| Recreational Court, Tennis, etc., Public | A | A | A | |
| Skating Rink | NP | A | NP | |
| Swimming Pool, Commercial or Public | C | C | C | See #71 Outdoor Entertainment in **Sec. 36-3.B** |
| A = Allowed C = Conditional S = Special Use Permit NP = Not Permitted | | | | |

| d) INSTITUTIONAL RELATED USES | ADO-1 ADO-2 | ADO-4 ADO-5 | ADO-6 | CONDITIONS |
|---|---|---|---|---|
| Child Care: Family Child Care Home (5—6 children) | C | C | C | See #37 Child Care Home (≤6) in **Sec. 36-3.B** |
| Child Care: Group Child Care Home (7—12 children) | C | C | C | See #38 Group Child Care Home (7-12) in **Sec. 36-3.B** |
| Child Care: Child Care Center or Preschool (over 12 children) | NP | S | S | See #36 Child Care Center in **Sec. 36-3.B** |
| Community Buildings | C | C | NP | |
| Convention Center/Exhibition Hall | A | A | NP | |
| Institutional Office (incl. quasi-governmental) | A | A | A | |
| Library/Museum | C | C | C | |
| Religious Institution w/Columbarium | C | C | C | See #43 Cemetery or Columbarium in **Sec. 36-3.B** |
| School (K-12) Public, Private, Parochial | C | C | NP | See #39 School (K-8)40School (9-12) in **Sec. 36-3.B** |
| School, College or University | C | C | NP | See #41 School (College or University) in **Sec. 36-3.B** |
| School, Commercial, Trade or Technical | C | C | C | See #42 School (Commercial, Trade, or Technical) in **Sec. 36-3.B** |

| d) INSTITUTIONAL RELATED USES | ADO-1 ADO-2 | ADO-4 ADO-5 | ADO-6 | CONDITIONS |
|---|---|---|---|---|
| Theatre, Performing Arts | NP | C | C | Use shall be located on a collector or higher designated roadway. |
| A = Allowed C = Conditional S = Special Use Permit NP = Not Permitted | | | | |

| e) OFFICE & COMMERCIAL LAND USES | ADO-1 ADO-2 | ADO-4 ADO-5 | ADO-6 | CONDITIONS |
|---|---|---|---|---|
| Art Studio | C | C | C | Retail activity is limited to 25% of the gross floor area in ADO-1 and ADO-2, and 50% in ADO-4, ADO-5 and ADO-6. |
| Bank, Bonding & Financial Institution (No Drive-Thru) | A | A | A | |
| Eating and Drinking Establishments (Cafe, Cafeteria, Coffee Shop, Restaurant; Bar, Pub, Tavern (No Dancing); Brewpub; etc.) | C | A | A | No drive-thru permitted. |
| Equipment (Large) Repair & Service (Non-Vehicular) | NP | C | C | No outside storage of parts, materials. or equipment is permitted. |
| Equipment Rental | NP | C | C | No outside storage of parts, materials, or equipment is permitted. |
| Gas Station | NP | A | A | |
| General Office and Service (Accounting, Auditing & Bookkeeping; Architectural, Contracting, Engineering, Planning & Surveying; Photo Studio; Barber/Beauty/Hair Salon & Related Personal Care; Cleaning & Maid Services; Consulting Services; Counseling Services; Credit Reporting & Collection; Desktop Publishing & Graphic Design; Funeral Home; Insurance; Laboratory; Legal Services; Lessons (Art, Dance, Music, etc.); Mailing & Stenographic Services; Medical/Dental Office; Motion Picture Production; Real Estate; Research Organization, Noncommercial; Tax Preparation; and other similar Business Offices.) | A | A | A | |
| General Retail & Commercial (Bicycle Sales, Service and Repair; Building Materials; Delicatessen, Carpet/Window Treatments; Clothing Store; Convenience Store; Department Store; Produce/Meat Market; Grocery Store; Hardware Store w/out outdoor sales or storage; Furniture Store; Garden Supply; Home Furnishings; Laundry/Dry Cleaning Services; Liquor Store; Pawn Shop; Pharmacy; Photography Studio; Plant Nursery; Specialty Foods such as bakeries, confectionaries, etc.; Specialty Store such as books, music, toys, etc.; Variety Store; Video/DVD Rental/Sales; and other typical small-scale Commercial establishments.) | A | A | A | |
| Health Care Clinic (Non-Hospital) | NP | A | A | |
| Hotel/Motel/Youth Hostel | NP | A | A | |
| Petroleum/Propane Sales | NP | C | C | Use shall be screened with an opaque buffer or screen meeting current Fire Code standards. Also see #124 Hazardous Chemical Manufacturing or Storage in **Sec. 36-3.B**. |
| Private Club or Lodge | NP | A | A | |
| Radio/TV Studio/Station | NP | A | A | |
| Seasonal Sales, Non-temporary (Fireworks, Agricultural Produce, Snowcone Stand, Firewood Sales, etc.) | C | C | C | All structure locations shall meet all applicable setback requirements. If sited on property where other uses exist, there shall be no obstruction of the driving aisles or parking stalls unless it can be proven that there is an excess of parking area. If the use does not follow temporary use provisions, the property shall be subject to all applicable development requirements. |

| e) OFFICE & COMMERCIAL LAND USES | ADO-1 ADO-2 | ADO-4 ADO-5 | ADO-6 | CONDITIONS |
|---|---|---|---|---|
| | | | | See also #35 Seasonal/Temporary Sales or Use in **Sec. 36-3.B**. |
| Small Item Repair Shop | C | C | C | No outdoor storage of parts, materials, or equipment is permitted. |
| Telemarketing/Mail Order/Call Center | NP | C | C | No warehousing or distribution is permitted |
| Temporary (Non-Seasonal) | C | C | C | See #35 Seasonal/Temporary Sales or Use in **Sec. 36-3.B**. |
| Theater, Movie | NP | A | A | |
| Theater, Performing Arts | NP | C | C | Uses shall be located on a collector or higher designated roadway. |
| Upholstery Shop | C | C | C | No outdoor storage of parts, materials, or equipment is permitted. |
| Vehicle Sales/Service/Rental/Repair (incl. body shop, parts stores, repair & service, wash/wax/detailing (self- or full-service), sales, rental, campers, tire sales/repair, etc.) | NP | C | C | No salvage yard or related activities shall be permitted. No outside storage of parts, materials, or equipment permitted. |
| A = Allowed C = Conditional S = Special Use Permit NP = Not Permitted | | | | |

| f) INDUSTRIAL LAND USES | ADO-1 ADO-2 | ADO-4 ADO-5 | ADO-6 | CONDITIONS |
|---|---|---|---|---|
| Above Ground Storage Tanks for Flammable & Combustible Liquids and LP Gas | NP | NP | C | See #124 Hazardous Chemical Manufacturing or Storage in **Sec. 36-3.B**. |
| Cab Stand | NP | NP | A | |
| Cabinetry and Woodworking | NP | NP | A | |
| Communication/Vertical Structures | C | C | C | See **Sec. 38-11. Wireless Communication Facilities** |
| Contractor's yard (general, plumbing, mechanical, and others of a similar nature) | NP | NP | C | All storage outside of buildings shall be enclosed with an opaque screen |
| Face Mount (attached to primary use) | C | C | C | See **Sec. 38-11. Wireless Communication Facilities** |
| Jewelry, Silverware & Plated Ware | NP | NP | A | |
| Laboratories (Medical/Dental/R & D) | NP | NP | A | |
| Manufacturing, Low-Intensity | NP | NP | A | See **Sec. 36-2.D.2.d)** above |
| Ministorage Units | NP | NP | A | |
| Musical Instrument Fabrication/Manufacture | NP | NP | A | |
| Parking Facilities, Commercial (Garages & Public Parking Lots | NP | NP | A | |
| Printing and Publishing | NP | NP | A | |
| Railroad Terminal | NP | NP | A | |
| Signs & Advertising Fabrication/Manufacture | NP | NP | A | |
| Storage/Display of Merchandise for Sale (except Manufactured buildings, mobile homes & operable cars, trucks, motorcycles & RVs) | NP | NP | C | Outdoor display is permitted and is required to be enclosed behind a solid wall or solid fence no less than 6 feet in height. |
| Storage outside of buildings of materials, equipment, and supplies not for sale | NP | NP | C | All outdoor storage shall be enclosed with a Type A screen. |
| Storage, warehousing accessory to Office, Retail, Service, or Industry | NP | NP | C | All outdoor storage shall be enclosed with a Type A screen. |
| Utility Installation, Public/Private | C | C | C | See #53 Public Utilities (Major) and #54 Public Utilities (Minor) in **Sec. 36-3.B** |
| Water Purification, Commercial | NP | NP | A | |

| f) INDUSTRIAL LAND USES | ADO-1 ADO-2 | ADO-4 ADO-5 | ADO-6 | CONDITIONS |
|---|---|---|---|---|
| Wholesale Trade, any product | NP | NP | A | |
| A = Allowed C = Conditional S = Special Use Permit NP = Not Permitted | | | | |

f) Development standards. There shall be no development or alteration of the lands, uses, or structures within the overlay zone district except as provided for by this section from the date of its enactment and other sections of the City Zoning Code and other City codes and ordinances where applicable. Development requirements and permitted uses shall be established for the entire overlay zoning district, as follows (unless otherwise indicated):

| 1. PLACEMENT OF PRIMARY STRUCTURES—RESIDENTIAL | |
|---|---|
| Lot Area/Size | Minimum: 3500 square feet<br>Maximum: Not to exceed size of largest existing lot on both sides of the same block. Applications for replats that would result in a larger lot size will be considered on a case by case basis. |
| Minimum Lot Width/Frontage | 40 feet |
| Minimum Lot Depth | 70 feet |
| Front Setback | Within the range of primary building setbacks on both sides of the same block. |
| Secondary Front Setback | 5 feet |
| Side Setback | Minimum: 5 feet<br>• Setback may be zero only if there is an existing structure on the same property with a zero setback.<br>• Stormwater required to be contained on subject parcel.<br>• Separation between all structures, on same and adjacent property, must comply with the International Building Code and other companion codes. |
| Rear Setback | Minimum: 10 feet<br>• Setback may be less than 10 feet only if there is an existing structure on the same property with a setback of less than 10 feet.<br>• Stormwater required to be contained on subject parcel.<br>• Separation between all structures, on same and adjacent property, must comply with the International Building Code and other companion codes. |
| Maximum Building Height | 35 feet<br>• Proposed development adjacent to the DDC, Downtown Development Code or Picacho Avenue may obtain a 35% Flexible Development Standard approval from the Community Development Director for structures greater than 35 feet, and will be considered on a case-by-case basis. If adjacent use is single-family residential, this exception shall not apply.<br>• For buildings greater than 2 stories, the upper stories shall be stepped back from the line of the front facade (see definitions). |
| Maximum # Attached Units | 4 |
| Maximum Density | 20 Dwelling Units/Acre |

| 2. PLACEMENT OF PRIMARY STRUCTURES—NONRESIDENTIAL | |
|---|---|
| Lot Area/Size | Minimum: 5,000 square feet<br>Maximum: Not to exceed size of largest existing lot on both sides of the same block. Applications for replats that would result in a larger lot size will be considered on a case-by-case basis. |
| Minimum Lot Width/Frontage | 60 feet |
| Minimum Lot Depth | 70 feet |
| Front Setback (Incl. Secondary Front Setback) | 5 feet<br>• Setback may be less than 5 feet only if there is an existing structure on the same property with a setback of less than 5 feet.<br>• Buildings that request a greater setback shall use that setback frontage for active or passive open space as defined herein. Under no circumstances shall outdoor sales or service activities |

| 2. PLACEMENT OF PRIMARY STRUCTURES—NONRESIDENTIAL | |
|---|---|
| | encroach on the public right-of-way.<br>• Awnings and entrance canopies may protrude into the setback.<br>• Second story bay windows, porches, decorative elements, landscaping, etc. may protrude into the setback. |
| Side Setback | Minimum: 5 feet<br>• Setback may be zero only if there is an existing structure on the same property with a zero setback.<br>• Stormwater required to be contained on subject parcel.<br>• Separation between all structures, on same and adjacent property, must comply with the International Building Code and other companion codes. |
| Rear Setback | Minimum: 10 feet<br>• Setback may be less than 10 feet only if there is an existing structure on the same property with a setback of less than 10 feet.<br>• Stormwater required to be contained on subject parcel.<br>• Separation between all structures, on same and adjacent property, must comply with the International Building Code and other companion codes. |
| Maximum Building Height | 35 feet<br>• Proposed development adjacent to the DDC, Downtown Development Code or Picacho Avenue may obtain a 35% Flexible Development Standard approval from the Community Development Director for structures greater than 35 feet, and will be considered on a case-by-case basis. If adjacent use is single-family residential, this exception shall not apply.<br>• For buildings greater than 2 stories, the upper stories shall be stepped back from the line of the front facade (see definitions). |

| 3. PLACEMENT OF GARAGES, SURFACE PARKING, SECONDARY RESIDENCES & ACCESSORY STRUCTURES | |
|---|---|
| Front Setback —<br>Residential and Nonresidential | Garage (Single-Family Residential only): To maintain the historic context of buildings in the neighborhood, garages may be placed within the range of garage front setbacks on both sides of the same block. This ensures that the placement of newly constructed garages is compatible with the location of existing garages in the immediate area and is consistent with the existing integrity and character of the street frontage. If there are no garages on the block to provide a range, the garage setback will be 25 feet.<br>Other: No closer than the rear facade of the primary building(s), 40 feet, or at least 50% of the lot depth, whichever is less. |
| Secondary Front Setback —<br>Residential and Nonresidential | Surface Parking: 8 feet<br>Other: 10 feet |
| Side Setback —<br>Residential and Nonresidential | A setback is not required.<br>• No encroachment into ROW permitted.<br>• Stormwater required to be contained on subject parcel.<br>• Separation between all structures, on same and adjacent property, must comply with the International Building Code and other companion codes. |
| Rear Setback —<br>Residential and Nonresidential | A setback is not required.<br>• No encroachment into ROW permitted.<br>• Stormwater required to be contained on subject parcel.<br>• Separation between all structures, on same and adjacent property, must comply with the International Building Code and other companion codes. |
| At the minimum, all setbacks shall meet clear sight triangle requirements, and where applicable, encroachment agreements must be entered into. Variances to clear sight triangle will be considered by the public works department. | |

g) Property alteration, remodel, or renovation.

i) Purpose. Property alterations, remodels or renovation standards are established for this district to maintain consistent quality for all development and may be used for the purpose of adaptive re-use of the structure. For the purposes of this section, exterior remodel, renovation, or alteration shall be defined as: Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, as well as any change in roof lines, or any enlargement to or diminution of a building or structure, whether horizontally or vertically. Normal maintenance activities, as verified by the Building Official, are exempt from this provision.

ii) Minor modifications. In most cases, expansion and/or modifications to a property must comply with the development standards of the Alameda Depot Neighborhood Overlay. However, if, through the determination of the Community Development Director, said compliance would substantially create an undue burden to the property owner or create a condition whereby the expansion and compliance measure, partially applied, would be substantially out of character with the existing development, an exception may be made. In no case shall a minor modification/expansion:

a. Equal or exceed a cumulative total of 15 percent of the gross floor area; or

b. Equal or exceed a cumulative total of $25,000.00 in valuation; or

c. Impact parking or landscape requirements.

iii) Any proposal meeting one or more of the above criteria shall not be considered as a minor addition and/or modification, and shall, therefore, be subject to normal review and consideration afforded development in the overlay and may be subject to nonconforming provisions that follow. The applicant must provide estimates for the cost of labor as a means of ensuring compliance with the valuation criteria. Once permission to proceed has been granted by the Community Development Director, the applicant may apply for the permit. Work shall not commence until permit approval is granted. All other nonconforming use requirements are subject to **Sec. 36-5.G. Nonconformities**.

h) Nonconforming uses, structures, and property. Nonconforming uses, structures and property that legally existed at the time of adoption of this overlay shall be considered legal nonconforming, and shall comply with the nonconforming use provisions found below.

i) Land uses that were legally in place at the time of adoption of this overlay and remain legal uses may continue to the extent the subject regulations allowed, but shall be required to come into compliance with current overlay standards when the following provisions take place:

a. The property remains vacant for a period of one continuous year or greater; or

b. Land use. A change in use occurs on the property that results in the alteration of the use intensity, e.g., low volume retail to high volume retail; use orientation, e.g., service to retail; or density, e.g., eight dwelling units to 15 dwelling units; or change in occupancy type from the building code perspective; or

c. Right-of-way or lighting. When nonconforming features regarding access from the right-of-way or lighting are involved, these features shall be brought into compliance with current standards when any one-time or cumulative increase of 15 percent or greater to the gross square footage of building area occurs; or

d. Signage, landscaping, walls or parking. When nonconforming features regarding signage, landscaping, walls or parking are involved, these features shall be brought into compliance with current standards when any one-time or cumulative increase of 25 percent or greater to the gross square footage of building area occurs; or

e. Development standards. Any noncompliant issues pertaining to setbacks, number of attached units and/or maximum density of existing development shall be brought into compliance with overlay standards to the extent possible. A nonconforming certificate may be issued based on appropriate documentation. Determination of the extent of compliance shall rest with the Community Development Director. Compliance with these matters shall not be triggered when a certificate has been issued as appropriate.

ii) Legal uses that existed prior to ordinance adoption (2010) that become a prohibited use with adoption may be allowed to continue to exist and may expand or enlarge (either one-time or cumulative increase) not more than 50 percent in gross square footage of lot or building area, provided that:

a. The property has not remained vacant for a period of one continuous year or greater; or

b. A change in use has not occurred on the property which results in the alteration of the use intensity (e.g., low volume retail to high volume retail); or use orientation (e.g., service to retail).

iii) Exceptions. Regarding any of the above, any one-time or cumulative increase of less than 15 percent to the gross square footage of building area may take place without requiring compliance to any nonconforming element associated with the property. Exceptions to this provision include those matters the city requires compliance on for purposes of meeting health, safety, and welfare concerns.

i) The Development Review Committee shall review applications for other Flexible Development Standards not specifically outlined herein based on requirements cited in **Sec. 34-3.E**.

j) Parking requirements.

| Community Development Department staff shall review plans for adherence to parking requirements. Parking requirements shall follow **Sec. 38-2.N. Off-Street Parking**, with the exceptions stated below: | | |
|---|---|---|
| 1. | Parking Ranges | Parking requirements for automobiles and bicycles are set for land uses in each zone, as noted in **Sec. 36-3.A. Permitted Uses**. Requests to reduce parking requirements shall be evaluated on a case-by-case basis by the Community Development Director. |
| 2. | Off-street Parking Location | Parking areas for nonresidential and multifamily uses shall be located to the side or back of the subject property and screened or buffered when visible from the street. (See subsequent section below, "Landscape requirement, planting for parking lots.") |
| 3. | Adjustments in Required On-Site Parking Spaces | The following provisions are methods to reduce the number of required on-site parking spaces. Any combination of the following options may be used, but in no event shall the reduction amount to more than 50% of the total requirement. The minimum number of parking stalls required is two. These provisions may not be utilized for required accessible parking spaces.<br>a. **Flexible Development Standards.**<br>Applicant may utilize "Tier 1" Flexible Development Standards (**Sec. 34-3.E**) to reduce the number of required on-site parking spaces by up to 25%. Requests to utilize this option shall be evaluated on a case-by-case basis by the Community Development Director. Applicant may utilize this option in combination with other parking reduction options.<br>b. **On-street Parking.**<br>In areas where the city has determined that on-street parking is permissible, this parking may be used for up to 25% of the required parking. On-street parking shall be permitted on all local roadways or as deemed appropriate through a traffic analysis conducted and/or approved by the Public Works Director.<br>c. **Shared Off-street Parking Areas.**<br>Multi-dwelling and nonresidential uses are encouraged to seek shared parking agreements with other multi-dwelling and nonresidential uses on nearby properties. In general, shared parking agreements shall follow criteria found in **Sec. 38-2.N.4.c)ii) Shared and Joint Use of Parking Areas**. Properties within one-fourth mile, as measured along the street network and pedestrian right-of-way, may be considered when determining how parking demand will be met.<br>d. For properties in the Alameda Depot Neighborhood Overlay that are listed as "significant" or "contributing" on the state or National Register of Historic Places and are utilized for office or commercial purposes, it is possible to allow exceptions to the number of on-site parking spaces required in exchange for the improvement or maintenance of the subject property in terms of the building and/or landscaping.<br>e. Other methods to reduce the total number of parking spaces will be considered on a case-by-case basis by the Community Development Director. These provisions follow **Sec. 38-2.N.4.c) Off-Street Parking Alternatives and Reductions**. They include:<br>• Adding more bicycle parking<br>• Adding more landscaping<br>• Building a parking structure<br>• Arranging tandem parking stalls<br>• Providing bus stop or bus shelter at bus stops within one-fourth mile |
| 4. | Walkways | In parking lots larger than one acre or equal to or greater than 200 feet wide, walkways within the lot shall link perimeter sidewalks to primary building entrances. |
| 5. | Prohibited Parking | All vehicles are to be parked along designated streets, in designated driveway or parking areas only. Parking on front lawns and/or landscaped areas shall be prohibited. |
| 6. | Dimensions and ADA Standards | All standards for parking dimensional and ADA requirements for all development within the district shall be consistent with **Sec. 38-2.N. Off-Street Parking**. |
| 7. | Driveways | Driveways width shall comply with city design standards. |

k) Landscape requirements. The abundance of mature shade trees in the Alameda Depot neighborhood contributes to the distinct character of the area. Landscape requirements are intended to protect this verdant landscape through the careful selection of plants and the implementation of water conservation principles. Community development department staff shall review landscape plans for adherence to the landscape requirements. Landscaping shall follow **Sec. 38-7. Landscaping** with the following exceptions and specifications:

i) Applicability*:* Landscaping standards apply to all new development and redevelopment in the ADO with the exception of properties that are occupied by single-family residences and duplexes. Where conflict in regulation exists, the provisions of this section shall supersede other landscaping requirements within the Municipal Code.

ii) Areas to be landscaped: The required area to be landscaped is equal to a minimum of 25 percent of the entire parcel area, excluding the main building area. Landscape consists of native or drought-tolerant species of both overstory (shade and coniferous trees) and understory plantings (ornamental trees, shrubs, cacti and perennial grasses, groundcovers and flowers).

iii) Landscape shall be defined as:

a. A minimum of one two-inch caliper tree, 15 five-gallon shrubs and either five one-gallon shrubs or 50 square feet of groundcover plants shall be installed per each 500 square feet of provided landscape area.

b. All plant materials shall be species native to the Chihuahuan Desert or adapted to our climate and to the location of the Alameda Depot neighborhood in the valley. This is not to say that the landscape plan needs to adhere to "zero-scaping." Rather, plants should be chosen that will survive and thrive in the local climate. Appropriate species include, but are not limited to, those in the following table. It is recommended that the applicant consult with a professional landscape architect or the Dona Ana County Master Gardeners regarding appropriate plant selection.

| TREES | SHRUBS | GROUNDCOVER |
|---|---|---|
| Arizona Ash<br>Arizona Cypress<br>Arizona Mesquite<br>Canyon Hackberry<br>Chinese Pistache<br>Desert Willow<br>Italian Cypress<br>Lacebark Elm<br>Palo Verde<br>Pecan<br>Pines<br>Southern Live Oak<br>Texas Honey Mesquite<br>Texas Red Oak<br>Sycamore<br>Western Hackberry | Euonymus<br>Juniper<br>Pyracantha<br>Sages (Texas, Chihuahuan, Desert, Cherry, Russian)<br>Silverberry<br>Spanish Broom | Bermuda<br>TIFF, various<br>Vinca<br>Horizontal Juniper<br>Trailing Rosemary<br>Iceplant<br>Creeping Thyme<br>Powis Castle Artemesia<br>Dalea capitata<br>Clover Fern |

c. All landscape planting should serve to enhance the architectural value of the building, ground the building in the site, create a pleasant and attractive environment for pedestrians, and mitigate environmental conditions such as excess heat, strong winds, and air pollution.

d. Trees shall include shade-producing trees that achieve a mature size of at least 25 feet high and 25 feet spread and ornamental trees that have particular features such as spring blooms, fall foliage color, or bark characteristics.

e. Shrubs shall include a mix of deciduous and evergreen plants.

f. Groundcovers shall serve to prevent soil erosion, provide color, and create an oasis feeling.

iv) Installation. The irrigation system and landscaping shall be installed before the completion of building construction and prior to the issuance of a certificate of occupancy unless a written agreement has been made with the city. Such agreements extending the time of installation will be for a maximum period of nine months, and shall be subject to temporary certificate of occupancy provisions and fees.

v) Planting for parking lots. All new construction and adaptive reuse of properties shall require planted parking areas. Landscaping in parking areas shall follow **Sec. 38-7.D.5. Parking Lot Landscaping** with the following exceptions or specifications:

a. One tree shall be planted for every five parking spaces within parking lots as they pertain to the uses listed for each area.

b. Trees may be located between the parking lot and the building, or within the parking lot itself. In the event that the landscaped area is between the building and the lot, the area shall be no less than eight feet in width.

c. In the event that the parking area is compliant with development standards above and remains adjacent to public right-of-way, there shall be a landscape buffer no less than eight feet wide between the building and the sidewalk or street. The buffer strip shall consist of shade trees and low shrubs or perennial flowers, which may count toward the landscape requirement specified above.

d. Trees in parking lots shall be located in an island or planter in which the tree trunks, at mature size, shall be protected from motor vehicles. Islands and planters shall be a minimum of six feet wide, have a minimum area of 36 square feet and a raised border of at least four inches in height.

vi) Property owners wishing to install landscaping in City right-of-way (for example, parkways or medians) shall first complete a maintenance and liability agreement with the Public Works Department, with the understanding that liability and maintenance shall be property owner's responsibility.

vii) In the event that a tree in City right-of-way must be removed in order to maintain or replace sidewalks, the regulations found in the Municipal Code Chapter 26, Article II, Division 2. Repair and Replacement of Sidewalks, shall be followed.

l) Walls and fences.

i) Existing fences within the district shall remain in place so long as they conform to the standards stated herein. Increases in structure height, length, or configuration shall require full compliance with fencing/wall requirements.

ii) Historic structures. On properties with contributing structures listed on the state or National Historic Register, new walls or fencing should complement or be in keeping with the style of the structure to the greatest extent possible demolition, removal or alteration of existing historic fences, walls, retaining walls, and steps is discouraged.

iii) Fences, walls, and hedges facing the street shall adhere to clear sight triangle regulations (see **Sec. 38-2.H. Clear Sight Triangle**).

iv) Fences, walls, and hedges that are within the rear and side yards shall be limited to a height of eight feet.

v) Retaining walls shall be designed in a manner limiting their height to what is absolutely necessary for the retaining purpose intended.

vi) All other provisions regarding walls and fences not noted herein shall follow those found in **Sec. 38-8. Fencing, Screening, and Buffering**.

m) Signs. All signage shall be of suitable materials and design so as to be compatible with the architecture of the structure and the residential character of the neighborhood. Sign permit applications shall be submitted for approval to the community development department in accordance **Sec. 38-10. Signs**, unless specified below.

i) Freestanding signs.

a. Ground signs shall be the only freestanding sign allowed within the ADO, and shall be no greater than 24 square feet in size and four feet in height. One sign per lot shall be permitted.

b. Freestanding signs are not permitted on parcels used for residential purposes, except for a development identification sign.

c. Ground signs may be illuminated, and shall follow regulations stated in **Sec. 38-9. Outdoor Lighting**.

d. Properties developed as business centers shall conform to the following:

i. A property containing a business center sign may not have additional freestanding signs, except for temporary signage, which shall follow **Sec. 38-10. Signs**.

e. Ground signs shall be placed at least five feet from the outside edge of the right-of-way, and at least five feet from adjacent property lines and not within the clear sight triangle as defined by **Sec. 38-2.H. Clear Sight Triangle**.

f. Freestanding multi-use development directory signs are not permitted.

ii) Attached signs.

a. Wall signs:

i. One square foot of signage for each linear foot of exterior wall space, not to exceed 50 square feet per wall.

ii. The sign(s) shall be placed on the side of the building used to calculate the square footage of the sign.

iii. Window and projecting signage shall be considered types of wall signs.

b. Home-occupation or live-work uses in residential areas shall be allowed one non-illuminated attached sign no greater than four square feet in size. Freestanding signs shall not be permitted for home-occupation or live-work uses.

c. Projecting signage:

i. Projecting signs shall be considered double-faced signs with each sign face of equal size. Only one side shall be used to determine the square footage.

ii. Projecting signs shall not exceed six square feet in sign face area.

iii. Only one projecting sign shall be allowed per business per street frontage.

iv. Only ground floor commercial businesses shall be permitted to utilize projecting signs.

v. Projecting signs must clear walkable areas by at least eight feet as measured from the bottom of the sign to grade and may project no more than four feet from the building or closer than two feet to the sidewalk, whichever is less.

vi. Projecting signs shall be installed at right angles to a building front.

d. Window signs:

i. There shall be no more than one permanent window sign per window.

ii. Neon signs displayed indoors constitute permanent window signs. Only one neon sign shall be permitted per business facade.

iii. The total coverage of all permanent, neon, and temporary window signs shall not exceed 25 percent of the total glass area of the window.

iii) Prohibited signs*:* The following signs are prohibited in the Alameda Depot Neighborhood Overlay:

a. Variable electronic message display boards, whether temporary or permanent.

b. Portable and pole signs, whether temporary or permanent.

c. Permanent banners.

d. Pennants, streamers, and other fluttering devices, whether temporary or permanent.

e. Real estate, construction, contractor and "coming soon" signs over 12 square feet in area or over five feet tall.

f. Billboards.

g. All other signs as prohibited in **Sec. 38-10.D. Prohibited Signs**.

iv) Temporary signs*:* Temporary signs shall follow provisions found in **Sec. 38-10. Signs**.

n) Demolition. To preserve any contributing structure listed on the historic register (state or national) in the Alameda Depot Neighborhood Overlay, this section creates a 60-day demolition permit review process that allows time for interested parties to explore alternatives to the demolition of historic structures. Demolition for all other structures shall follow section 30-491 of the LCMC.

i) Demolition permit. Demolition permit applications shall be submitted to the Community Development Department prior to any demolition activity taking place. Community Development Department staff will review the application for compliance with the LCMC. A proposal for redevelopment of the property must accompany the permit application.

ii) Posting. At the beginning of the 60-day demolition permit review process, the Community Development Department will issue a sign that is to be posted in a conspicuous place on the property. The applicant is responsible for posting the sign and ensuring that it is in place for the entire 60-day period.

iii) At the beginning of the 60-day demolition permit review process, the Community Development Department will inform the neighborhood associations, the New Mexico State Historic Preservation Office (SHPO) and the Dona Ana Historical Society that a demolition permit has been applied for.

iv) A demolition permit shall be issued upon the completion of the following items: 1) the completion of the 60-day period; and 2) the application meets all City Code requirements and has been approved by the Community Development Department staff. (The applicant may use the 60-day time period to resolve any necessary Code compliance comments.) The permit application may be withdrawn by the applicant at anytime without charge.

v) Prior to the demolition of a historic structure, the applicant shall be responsible for fully documenting the structure, both interior and exterior, to provide a permanent record, in accordance with documentation procedures as follows. The demolition permit will not be approved without submittal and approval of this documentation by Community Development staff.

a. Complete the Historic Cultural Property Inventory (HCPI) forms 1 and 2, available in the Community Development Department and online at:

b. Photograph the historic property: Take several exterior photos of the structure to be demolished (front, rear, sides, close-up views, details, setting, etc.). Photo processing, printing and labeling shall follow the protocol established on the National Register Photo Policy Fact Sheet, available in the Community Development Department and online at:
http://www.nps.gov/history/nr/publications/guidance/Photo_Policy_final.pdf

c. If measured drawings done by the Historic American Building Survey exist, the owner should annotate the drawings, showing changes to the property, interior and exterior, that have occurred up to the current date.

d. If known, a short history of the property should be included, in order to document how that property fits within the historic district or community.

e. The demolition permit will not be approved without submittal and approval of this documentation by Community Development staff.

vi) Compliance with the procedure set out in this section is not required if it is determined by the City of Las Cruces that the immediate demolition of a historic structure is in the best interest of public health, safety and welfare. The applicant shall be responsible for documenting the structure in accordance with the procedure above to fully demonstrate the need for demolition and to provide a historic record of the structure. In the event that entering the structure would pose a threat to the health, safety and welfare of the documenter, interior photos are not required. This documentation must accompany the memo of determination for demolition by the building official prior to the issuance of a demolition permit.

o) Land use/zone change requests. To request a land use that is not permitted in the current district~~, see **Sec. 34-3.I. Amendments to this Development Code** to request an amendment to the Permitted Use Chart, or~~ follow the process outlined in **Sec. 36-5.A. Zoning Map Amendments** to request a conditional zone change ~~in zoning district~~.

p) Submittal and review process. The following submittal and review procedures are established for all new development to protect persons and property in the Alameda Depot Neighborhood Overlay. The applicant shall submit at minimum, one copy of all application materials to the Community Development Department for review. Upon submittal, staff shall review the submittal for completeness. If all the required items have been submitted, the Community Development Department shall issue a receipt for submittal.

i) Buildings/structures. Prior to the filing of an application for development and/or signs, a pre-application conference with Community Development Department staff to review the proposal is strongly encouraged.

ii) Subdivisions. For submittal and review of subdivisions, refer to **Sec. 37-2. Subdivision Procedures**.

iii) Signs. Sign permit applications shall be submitted for approval to the Community Development Department in accordance with **Sec. 38-10. Signs** and **g)** above.

iv) Numerical deviations to the requirements of **Sec. 38-2.H. Clear Sight Triangle** shall be considered, reviewed, and denied or approved by the Public Works Director.

q) Appeals. Any aggrieved person who is affected by a decision of an administrative official, commission, committee, or board in the enforcement of the Alameda Depot Neighborhood Overlay may appeal such decision in accordance with **Sec. 34-3.F. Appeals**.

r) Enforcement of overlay zone district. Provisions to enforce this section shall be consistent with the enforcement provisions of **Sec. 34-1.H. Violations and Enforcement**.

3. LCIIP, Las Cruces Industrial Innovation and Industrial Overlay Zone District

a) Purpose

The purpose of the Las Cruces Innovation and Industrial Park Overlay Zone District is to guide development within the Park and implement the policies found in the LCIIP Master Plan. It aims to promote the natural and existing environment within the Park, and encourage employment options for residents while enhancing the overall aesthetic features of the Park.

b) Applicability of Industrial Park Overlay Zone District boundaries

The Las Cruces Innovation and Industrial Park Overlay Zone District shall apply to all properties within the Overlay Zone District as identified in **Figure 36-2-16. LCIIP Zoning Designations** below. Most of the Park is regulated by the Overlay Zone District requirements except a few parcels, as indicated in **Figure 36-2-16. LCIIP Zoning Designations**. The Overlay Zone District includes permitted and prohibited uses along with development standards for site, architecture, landscape, and parking.

c) Land Use Districts

As established in Elevate Las Cruces, "Business Park and Industrial areas are reserved for concentrations or warehousing, trade, transportation, research and development, manufacturing, and industrial uses" (Elevate Las Cruces, Volume I, pg. 35).

d) Land Use Framework

i) The goal of the Land Use Framework is to accommodate a range of uses, with the intent of creating synergy between businesses with similar or complementary activities.

ii) The Land Use Framework also establishes a commercial district adjacent to Interstate 10. Uses such as restaurants and retail are permissive here to provide and encourage services to the local workforce. The Land Use Framework establishes four districts with specific permissive land uses. Since the Las Cruces Innovation and Industrial Park Overlay Zone District allows a wide variety of uses and covers almost all the land area within the Park boundary, the Land Use Framework establishes land use districts to group similar or complementary uses to provide a more organized built environment. The Land Use Framework, as illustrated in **Figure 36-2-15. LCIIP Overlay Zone & Districts**, breaks the Park down into four districts:

a. Value added agriculture;

b. Manufacturing/warehousing/distribution;

c. Aerospace/aviation/defense; and

d. Commercial.

iii) The Value-Added Agriculture district is located south of Interstate 10 in the southeastern portion of the Park. It is intended to accommodate agriculture-related manufacturing and other processes that enhance the value of basic agricultural commodities. Most of the parcels are larger in size to provide sufficient land for these types of activities.

iv) The Manufacturing/Warehousing/Distribution district is located south of Interstate 10 in the southwestern portion of the Park. It is intended to accommodate manufacturing, warehousing, and distribution types of uses. It offers a range of parcel sizes and has good access to the interstate.

v) The Aerospace/Aviation/Defense district is located north of Interstate 10 and is adjacent to the Las Cruces International Airport. It is intended to accommodate aviation- and defense-related uses and offers a range of parcel sizes with direct access to the airport.

vi) The Commercial district is located adjacent to Crawford Boulevard, on both sides of the Interstate 10 interchange. It is intended to accommodate commercial uses that offer services to the local workforce and interstate-associated business opportunities. This district has smaller parcel sizes more suited for uses like restaurants, with good visibility and access from the interchange.

e) Development Process

All development within the Overlay Zone District shall follow the applicable City of Las Cruces development processes.

**Figure 36-2-15. LCIIP Overlay Zone & Districts**

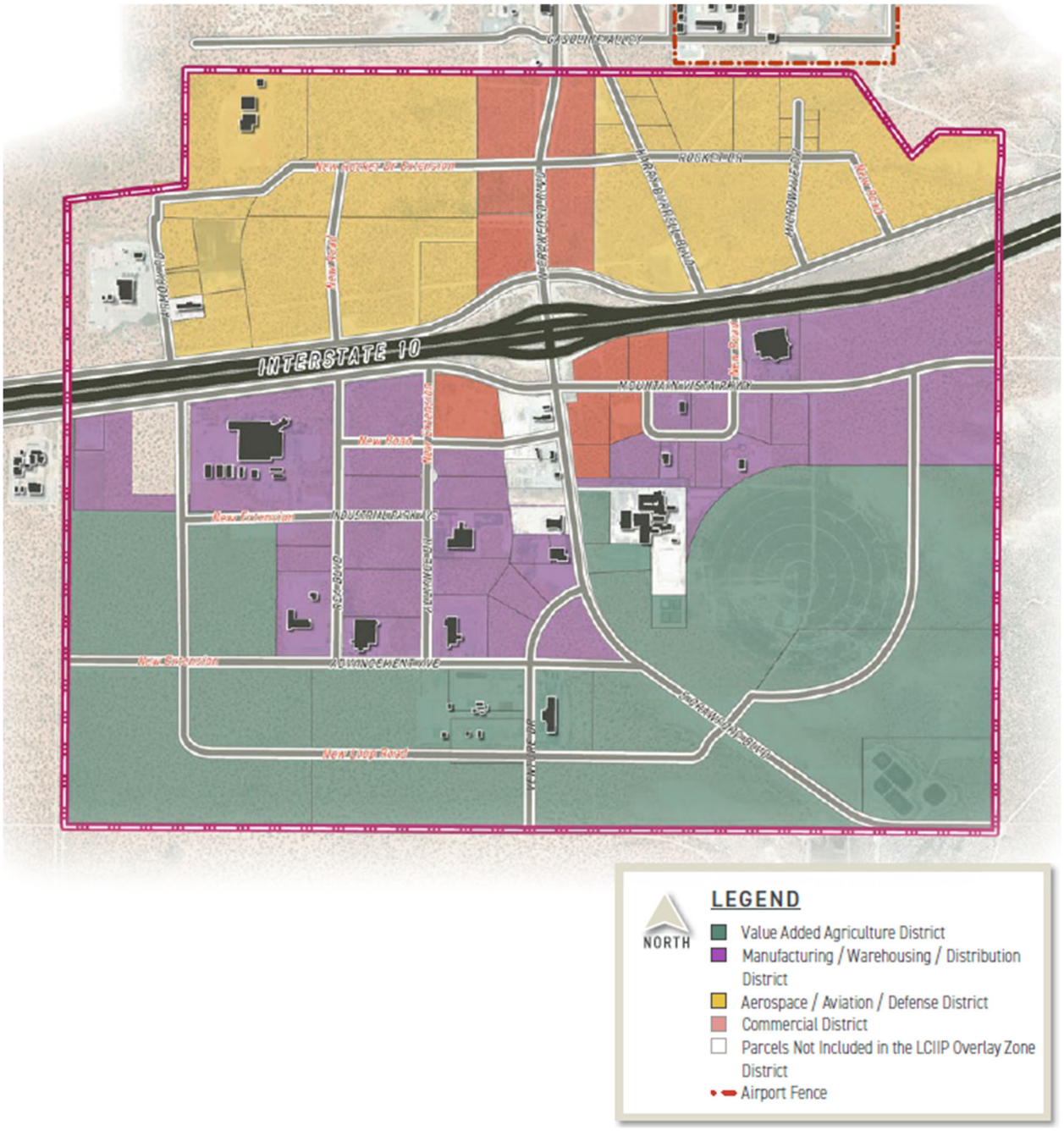


**Figure 36-2-16. LCIIP Zoning Designations**



f) Land Uses

**Figure 36-2-17. LCIIP Use Table** allocates uses into four Land Use Districts. A dash ("-") indicates the use is not permitted while a "P" indicates that a use is permitted. An "A" indicates that a use is accessory. Associated Conditional Use Standards are indicated with an "X" and detailed in Section "Conditional Use Standards." This indicates that a use is permitted with conditions. Uses not specified in **Figure 36-2-17. LCIIP Use Table** will be determined by the Community Development Director in consultation with the Economic Development Director.

**Figure 36-2-17. LCIIP Use Table**

| — = Not permitted<br>P = Permitted Use<br>A = Accessory Use<br>X = Existing Conditional Use Standard(s) | Commercia l | Manufacturing/ Warehousing | Aerospace/ Aviation/ Defense | Value Added Agriculture | Conditional Use |
|---|---|---|---|---|---|
| **RESIDENTIAL USES** | | | | | |
| All Residential Uses (except accessory dwelling units as outlined under the Accessory Use category) | — | — | — | — | |
| **CIVIC AND INSTITUTIONAL USES** | | | | | |
| Higher Education, Vocational School | P | P | P | P | |
| Fire and Police Station | P | P | P | P | |
| Military and Law Enforcement Agency | — | P | P | P | |
| Parks and Open Space | P | P | P | P | |
| **COMMERCIAL USES** | | | | | |
| Agriculture & Animal Related | | | | | |
| General Agriculture | — | P | — | P | X |
| Small Animal Facilities | P | P | — | P | X |
| Food, Beverage, Entertainment & Lodging | | | | | |
| Brewery, Microbrewery Facilities, Tasting Rooms | P | P | — | P | X |
| Food, Beverage, Hotel or Motel | P | — | — | — | |
| Indoor Entertainment/Recreation Venues | P | — | — | — | |
| Nightclub and Bar | P | — | — | — | |
| Motor Vehicle-Related | | | | | |
| Freight House or Truck Terminal | — | P | P | P | |
| Vehicle Services | P | P | — | P | X |
| Offices and Commercial Services | | | | | |
| Offices and Research Facility | P | P | P | P | |
| Commercial Services and General Retail | P | — | — | — | |
| Construction Contractor Facility and Yard | — | P | P | P | X |
| Outdoor Entertainment | | | | | |
| Outdoor Entertainment | P | P | - | - | X |
| **INDUSTRIAL USES** | | | | | |
| Manufacturing, Fabrications & Assembly | | | | | |
| Cannabis Cultivation, Infused Products Manufacturing | — | P | — | P | X |
| Light Manufacturing | P | P | P | P | X |
| Heavy Manufacturing | — | P | P | P | X |

| — = Not permitted<br>P = Permitted Use<br>A = Accessory Use<br>X = Existing Conditional Use Standard(s) | Commercia l | Manufacturing/ Warehousing | Aerospace/ Aviation/ Defense | Value Added Agriculture | Conditional Use |
|---|---|---|---|---|---|
| Special Manufacturing | — | P | — | P | X |
| Natural Resource Extraction | — | P | — | — | |
| Recycling Sort Facilities and Electronics Recycling (paper/plastic/metal sorting-only and electronics recycling) | — | P | — | — | |
| Film and Media Production | | | | | |
| Film and Media Production | P | P | P | P | |
| Telecommunications, Towers, and Utilities | | | | | |
| Drainage & Major Utility, other | P | P | P | P | |
| Solar Energy Generation | — | — | P | P | X |
| Telecommunications, towers, and utilities | P | P | — | P | X |
| Wholesaling and Storage | | | | | |
| Outdoor Storage | — | P | P | P | X |
| Warehousing, Logistics, and Distribution | — | P | P | P | |
| **TEMPORARY USES** | | | | | |
| Construction Staging Area, Trailer, or Office | P | P | P | P | |
| Seasonal Outdoor Sales, Events | P | — | — | — | |
| **ACCESSORY USES** | | | | | |
| Commercial/Office Uses | A | A | A | A | X |
| Residential Use—Non-Primary | A | A | A | A | X |
| Parking Garage with/without Liner Building | A | A | A | A | |
| Recreational Vehicle Parking Stalls/Hook-Ups | P | — | — | — | X |

i) Prohibited Uses

The following uses are prohibited:

a. All uses prohibited under FAA regulations;

b. All adult amusement establishments;

c. All residential uses, except as established under the accessory use category.

ii) Conditional Use Standards

a. Aerospace/Aviation/Defense District

i. All uses in the Aerospace & Aviation District shall comply with all applicable FAA regulations.

b. Commercial Uses

i. Agriculture and Animal Related

(a) General Agriculture

(i) Animals shall be confined to graze within the appropriate boundaries and cannot graze on surrounding properties and streets.

(ii) The keeping of large and small livestock animals shall comply with the City of Las Cruces Municipal Code.

(b) Small Animal Facilities

(i) Kennels must be conducted within fully enclosed building. Outdoor pens shall be enclosed on all sides by a wall or fence at least six feet high.

(ii) This use must be screened as required by **Sec. 36-2.D.3.h)vii) Walls, Fences, and Screening**.

ii. Food, Beverage, Hotel or Motel

(a) Brewery and micro-brewery facilities, including tasting rooms.

(i) Alcohol sales for on-premises consumption is allowed, provided that the establishment complies with all New Mexico State law requirements.

iii. Motor Vehicle-Related

(a) Vehicle Services

(i) This use must be screened as required by **Sec. 36-2.D.3.h)vii) Walls, Fences, and Screening**.

(ii) Vehicle repair, servicing, and maintenance shall be conducted within a fully enclosed building.

(iii) Recreational Vehicle/Parking Stalls/Hook-ups are ancillary to the primary use and cannot be a standalone land use.

iv. Offices and Commercial Services

(a) Construction Contractor Facility and Yard

(i) This use must be screened as required by **Sec. 36-2.D.3.h)vii) Walls, Fences, and Screening**.

v. Outdoor Entertainment

(a) Outdoor Entertainment

(i) Drive-In Theater use shall be enclosed with a wall, fence, or vegetative screen of at least six feet in height. A screen located less than 500 feet from Interstate 10 shall be shielded so that the picture surface cannot be seen from Interstate 10.

(ii) All other outdoor entertainment uses shall include fencing or screening meeting the standards established in **Sec. 36-2.D.3.h)vii) Walls, Fences, and Screening** designed to prevent any objects from passing beyond the property line and onto surrounding properties and streets. Uses shall be limited to one acre in size.

iii) Industrial Uses

a. Manufacturing, Fabrications & Assembly

i. Cannabis cultivation, Infused Products Manufacturing

(a) This use shall comply with all New Mexico State law requirements.

ii. Light Manufacturing

(a) All activities in this use shall be conducted within a fully enclosed building unless a Special Use Approval is obtained pursuant to the City of Las Cruces Special Use Permit Process.

(b) Incidental outdoor storage is permitted but must comply with **Sec. 36-2.D.3.h)vii) Walls, Fences, and Screening**.

(c) This use may include a sales/display room for items manufactured on the property.

iii. Heavy Manufacturing

(a) This use may be conducted outside of a building, provided the activities are screened from view according to **Sec. 36-2.D.3.h)vii) Walls, Fences, and Screening**.

(b) Incidental outdoor storage is permitted but must comply with **Sec. 36-2.D.3.h)vii) Walls, Fences, and Screening**.

iv. Special Manufacturing

(a) This use must obtain all applicable State and federal permits or approvals for the activity and comply with the terms of those permits and approvals throughout the duration of the activity.

(b) This use may be conducted outside of a building, provided the activities are screened from view according to **Sec. 36-2.D.3.h)vii) Walls, Fences, and Screening**.

b. Telecommunications, Towers, and Utilities

i. Solar Energy Generation

(a) This use must obtain all applicable State and federal permits or approvals for the activity and comply with the terms of those permits and approvals throughout the duration of the activity.

ii. Telecommunications, Towers, and Utilities

(a) This use shall comply with the City of Las Cruces Municipal Code.

c. Wholesaling and Storage

i. Outdoor Storage

(a) This use must be screened as required by **Sec. 36-2.D.3.h)vii) Walls, Fences, and Screening**.

iv) Accessory Uses

a. Accessory Commercial Uses

i. In all districts, all uses listed under the 'Food, Beverage, Entertainment & Lodging' use and 'Offices and Commercial Services' use category shall be permissive as an accessory use not to exceed a maximum of 40 percent of the gross floor area of the building for commercial purposes associated with that specific industrial or manufacturing use.

b. Accessory Residential Use—Non-Primary

i. Residential use—non-primary is allowed for caretakers of the primary non-residential use and may be attached or detached.

g) Administration and Enforcement

i) Applicability

The following development standards shall apply to all parcels located within the Overlay Zone District's boundary as identified on **Figure 36-2-15. LCIIP Overlay Zone & Districts**. City of Las Cruces Municipal Code standards shall apply unless otherwise stated in the document.

ii) Non-Conforming

a. Uses and structures that are non-conforming with the standards of the Las Cruces Innovation and Industrial Park Overlay Zone District shall comply with this section.

i. There are two instances of non-conformance:

(a) Instance 1: A non-conforming use/structure which was initiated/constructed prior to the adoption of the Overlay Zone District standards.

(b) Uses that are classified as instance 1 may continue in perpetuity unless the use ceases for a period of no less than 12 consecutive months. However, the use/structure cannot be expanded, enlarged, or extended.

(c) Instance 2: A non-conforming use/structure initiated/constructed after the adoption of the Overlay Zone District standards.

(d) Uses that are classified as instance 2 shall be brought into compliance immediately and shall not be permitted to expand.

h) General Development Standards

i) Streets and Public Right-of-Way

a. All streets within Las Cruces Innovation and Industrial Park must adhere to City of Las Cruces Design and Roadway Construction Standards currently amended/adopted.

b. Property owners shall provide dedicated right-of-way including easements for trail corridors and pedestrian facilities.

c. The property owner is responsible for providing landscaping in accordance with standards outlined in this section in contiguous parkways and medians at the time of site development.

d. All additions, rehabilitation, remodeling, or structural modifications to existing buildings with a value of $100,000.00 or more, including all new parking lots require installation of parkway and median landscaping.

e. Landscape in parkways and medians shall be maintained by the property owner of the contiguous property.

ii) Dimensional Standards

a. All buildings and structures within Las Cruces Innovation and Industrial Park will be limited to the following development requirements:

**Figure 36-2-18. LCIIP Dimensional Standards**

| Dimension | Minimum |
|---|---|
| Minimum Lot Width | 60 feet |
| Minimum Lot Depth | 70 feet |
| Front Setback, Minimum | 25 feet |
| Secondary Front Setback, Minimum | 25 feet |
| Side Yard Setback, Minimum | 20 feet |
| Rear Setback, Minimum | 25 feet |
| Building Height, Maximum | 100 feet |

iii) Site Layout

a. Orient building entries, office areas, showrooms and/or lobbies, and amenities to front the primary public street.

b. On-site circulation shall have an adequate length of stacking for industrial facilities, e.g. loading docks, terminals, etc. that do not interfere with the movement of traffic (on- or off-site) and/or pedestrian areas.

c. Outdoor lighting shall follow the regulations provided in **Sec. 38-9. Outdoor Lighting**.

d. Provide on-site pedestrian walkways at a minimum six-foot clear width that are separate from drive aisles to connect to primary building entrances.

e. A public space such as an outdoor patio space, plaza, or courtyard shall be provided for any buildings greater than or equal to 75,000 square feet. For lots with more than one building, shared public spaces are permitted.

f. Sidewalk installation is required with any development located on the north side of Interstate 10.

g. Sidewalk installation is not required with any development located on the south side of Interstate 10.

iv) Parking

a. Accessible parking shall be provided according to Federal ADA parking standards.

b. Landscaped islands and medians shall be incorporated into parking areas to provide shade, define parking areas and pedestrian access, and allow for passive water harvesting. See **Sec. 36-2.D.3.h)vi) Landscaping** for requirements.

c. Surface runoff in parking lots shall be directed to landscaped passive water harvesting areas.

d. A minimum of 20 percent of parking spaces provided shall use previous materials such as previous concrete, previous asphalt, permeable pavers, compacted gravel or gravel. If gravel is used, a minimum of four-inch base course that is compacted to ensure stabilization of gravel is required.

e. Carports, including solar carport canopies, are allowed within surface parking lots, provided the materials are compatible with the building architecture.

f. Fleet vehicle parking and loading docks shall not be located along the site main frontage. The placement of such facilities shall be located in the rear half of the site, secondary front, or behind the principal structure.

g. Outdoor storage areas used for fleet vehicles shall be paved or use a similarly compacted material that is stable and does not produce dust.

h. Bike parking shall be located at the primary entrance of the primary building.

v) Architecture

a. Building Materials

i. Buildings shall be designed to incorporate contemporary architectural styles and materials to create the appearance of a state-of-the-art industrial park. Common elements such as architectural style, color, materials and ornamentation shall be used to create a cohesive park identity.

ii. Permitted materials include:

(a) Exterior plaster or stucco.

(b) Architectural metal; decorative panels, structural elements and decorative support or trim members.

(c) Precast concrete and tilt-up wall systems.

(d) Textured, patterned and/or integrally colored cast-in-place concrete.

(e) Integrally colored, precast CMU (concrete masonry units), provided that surfaces are molded, serrated or treated to give wall surfaces a three-dimensional texture.

(f) Brick.

(g) Natural stone.

(h) Glass curtain wall systems.

iii. Higher quality materials shall be utilized to draw attention to the office areas and entrances. Higher quality materials include architectural metal, decorative panels, structural elements and decorative support or trim members, brick and natural stone, among others.

iv. The use of reflective or shiny metallic roofs shall be prohibited.

b. Massing

i. Building heights, massing and setbacks shall be varied, to define the different functions within a building such as offices and warehousing.

ii. Primary buildings shall have clearly defined entries. To emphasize entries, one or a combination of the following elements shall be applied; portals, overhangs, fenestration, canopies, material and color changes. The "large box" components of the industrial buildings that are visible from a public right-of-way shall feature both vertical and horizontal articulation and be compatible with the more articulated office area.

iii. Metal structures are acceptable; however, they must visually tie to other building elements, such as the office, storage areas, etc.

iv. Temporary or portable buildings shall be limited in use for construction purposes only.

c. Screening

i. Exposed industrial systems and equipment shall be architecturally integrated or screened unless otherwise determined by the Community Development Director upon consultation with the Economic Development Director.

ii. All heavy industrial processing, assembling of materials shall be conducted within an enclosed structure or be screened according to **Sec. 36-2.D.3.h)vii) Walls, Fences, and Screening**.

vi) Landscaping

a. General Provisions

i. Landscaping Calculations and Definitions

For all developments within the Las Cruces Innovation and Industrial Park, the following formula shall be used to calculate the amount of landscape area is required:

Total Lot Area multiplied by the following percentages, not exclusive of building area:

**Figure 36-2-19. LCIIP Required Landscaping**

| Lot Size | Multiplier |
|---|---|
| 1.00 to 4.00 acres | 12% |
| 4.01 to 8.00 acres | 10% |
| 8.01 to 12.00 acres | 8% |
| >= 12.01 acres | 6% |

ii. One-fourth of the total area required to be landscaped shall be located within the front setback area of the property.

iii. Where the site exceeds one acre, only the portion of the site that includes the operational area where the primary building is situated and is being developed/disturbed shall be calculated. If the

area to be left undeveloped/undisturbed is disturbed during construction, replacement of vegetation is required.

iv. Passive water harvesting drainage swales shall be considered and installed when possible within landscape areas to capture runoff from impervious surfaces as illustrated in **Figure 36-2-20. Drainage Swales**.

v. Impervious areas shall be graded to drain into drainage swales. Drainage swales shall be designed as follows:

(a) Swale channel alignments and side slopes must be designed in close coordination with civil engineers to ensure that they convey stormwater while minimizing erosion damage.

(b) Swales shall capture at minimum the first flush of a storm event.

(c) Swale side slopes shall not exceed 4:1. Where adjacent to walkways or accessible hardscape areas they shall not exceed 6:1.

(d) Runoff that enters the swale in a sheet flow fashion requires that the edge of the swale be flush with grade. Where curbs are necessary, intermittently spaced curb cuts shall be installed to allow runoff to enter the swale. Curb cuts shall be at least 18 inches wide and spaced from three to 15 feet apart.

vi. For further guidance on design and installation of drainage swales in landscape areas, refer to the NMDOT National Pollutant Discharge Elimination System (NPDES) Manual.

b. Plant/Landscape Materials

i. The Las Cruces Airport Landscape Plan shall be used as a guide for acceptable plant materials.

ii. Living plant material shall be provided according to the following:

(a) A minimum of one live tree shall be provided for every 1,000 square feet of required landscaped area.

(b) A minimum of twenty live shrubs shall be provided for every 1,000 square feet of required landscaped area.

(c) One hundred square feet of ground-over or ten one-gallon size plants shall be provided for every 1,000 square feet of required landscaped area.

iii. Plant substitution is permitted following the City of Las Cruces Design Standards.

iv. Minimum plant material sizes at the time of installation shall be:

(a) Deciduous Canopy Trees and Deciduous Accent Trees—Two-inch Caliper.

(b) Evergreen Trees—Ten-foot Minimum height.

(c) Shrubs and groundcover—One gallon minimum.

v. Xeriscape or drought tolerant landscaping is required for all provided landscaping areas.

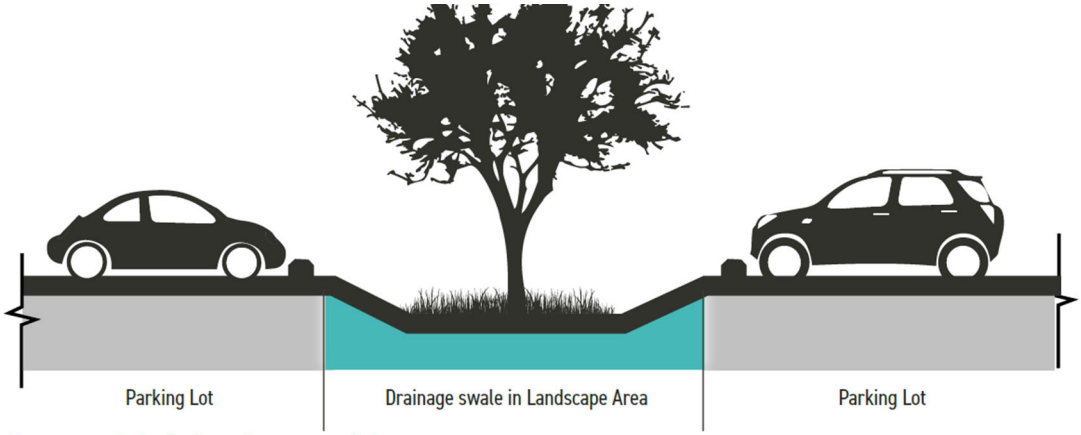
vi. Gravel, rock mulch or organic mulch, and similar mulch materials are acceptable within landscape areas. If gravel is used as ground cover, its use shall be limited to a maximum of 75 percent within landscape areas.

vii. Gravel, colored rock, and similar mulch materials shall not be permitted north of Interstate 10.

viii. All plant material shall be maintained by the owner in a living, attractive condition. All areas shall be free of weeds.

ix. If used, weed barriers shall be permeable to optimize stormwater infiltration and prevent runoff.

**Figure 36-2-20. Drainage Swales**




*Conceptual depiction of one possible stormwater harvesting feature in parking lot.*

c. Off-Street Parking Lots

i. Off-street parking lots shall have one tree for every ten parking spaces. Where covered carports are utilized, this requirement may be reduced or eliminate the tree requirement within parking lots through a determination of the Community Development Director. The Community Development Director shall consider the overall landscaping plan and the scale of the development to determine if covered carports shall either reduce or eliminate the tree requirement within parking lots.

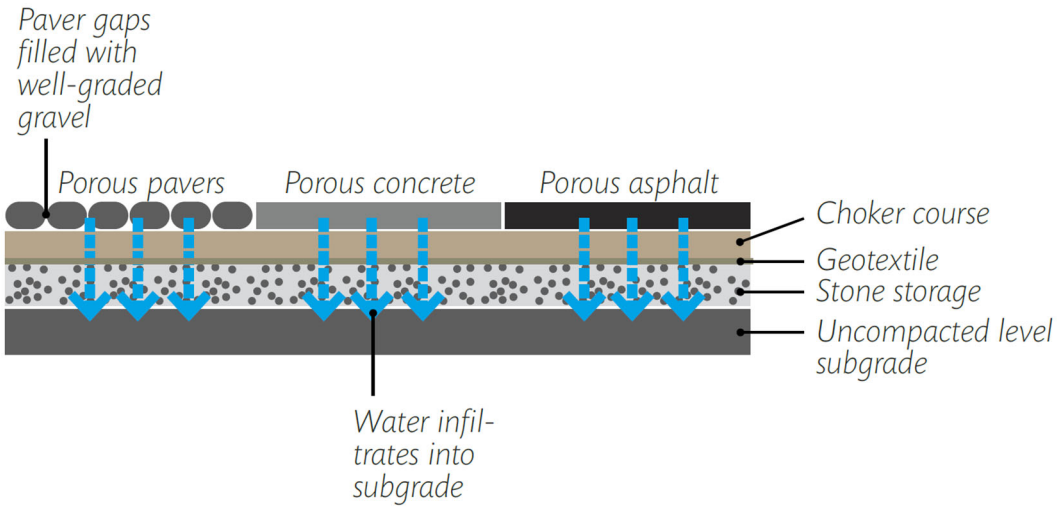
ii. The minimum size of tree planters within off-street parking lots shall be 60 square feet per tree.

iii. In parking lots of 100 spaces or more, the ends of parking aisles shall be defined as landscaped islands no narrower than eight feet in any dimension.

iv. Off-street parking lot landscaping standards do not apply to fleet vehicle parking areas.

v. Any landscaping provided to meet the off-street parking lot standards will be credited towards the overall site ten percent landscape requirement.

**Figure 36-2-21. Porous Surface with Typical Features**




vii) Walls, Fences, and Screening

a. The maximum allowed height for a fence depends on where the fence is located on a property. All fences and walls shall comply with the height limits established in **Figure 36-2-22. Maximum Wall Height** and illustrated in **Figure 36-2-23. Wall Height**.

**Figure 36-2-22. Maximum Wall Height**

| Location | *Maximum Height* |
|---|---|
| Within required primary front yard setback | 8' |
| Within secondary front yard setback | 10' |
| Within tertiary front yard setback | 10' |
| Within required side yard setback | 10' |
| Within required rear yard setback | 10' |
| Within the clear sight triangle at the intersections of streets and driveways | 3' |

**Figure 36-2-23. Wall Height**

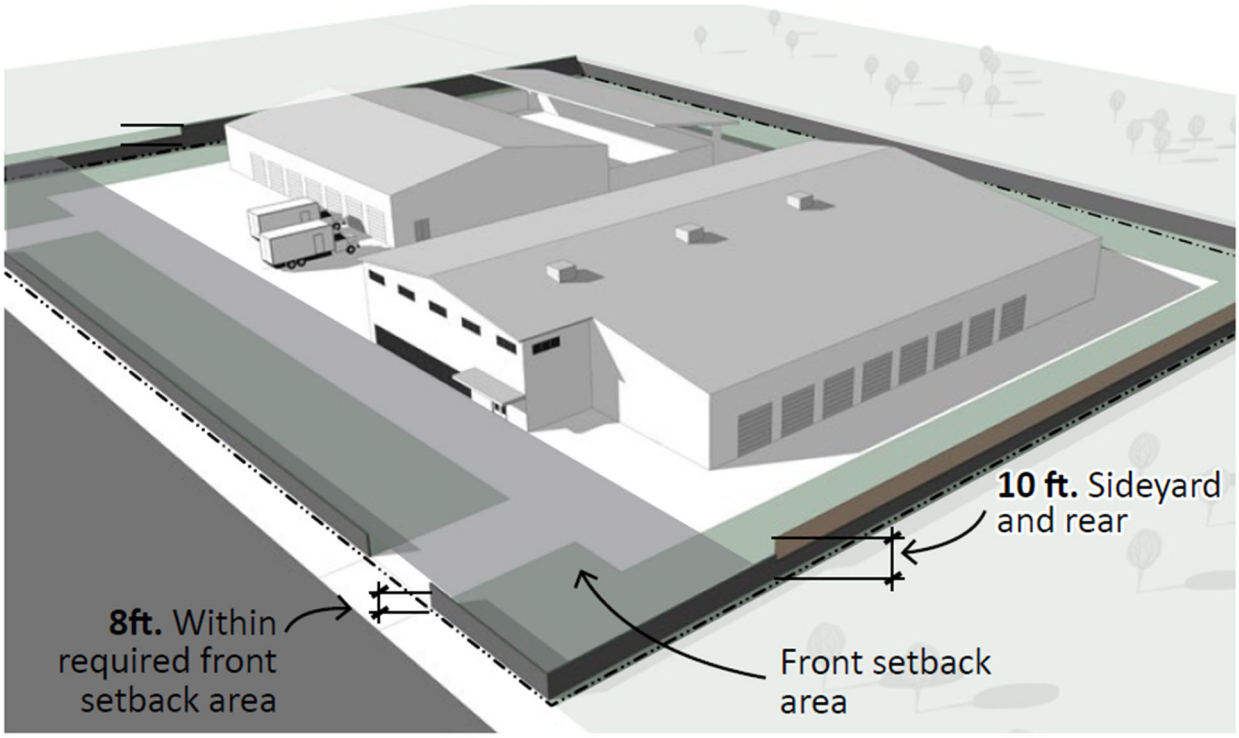
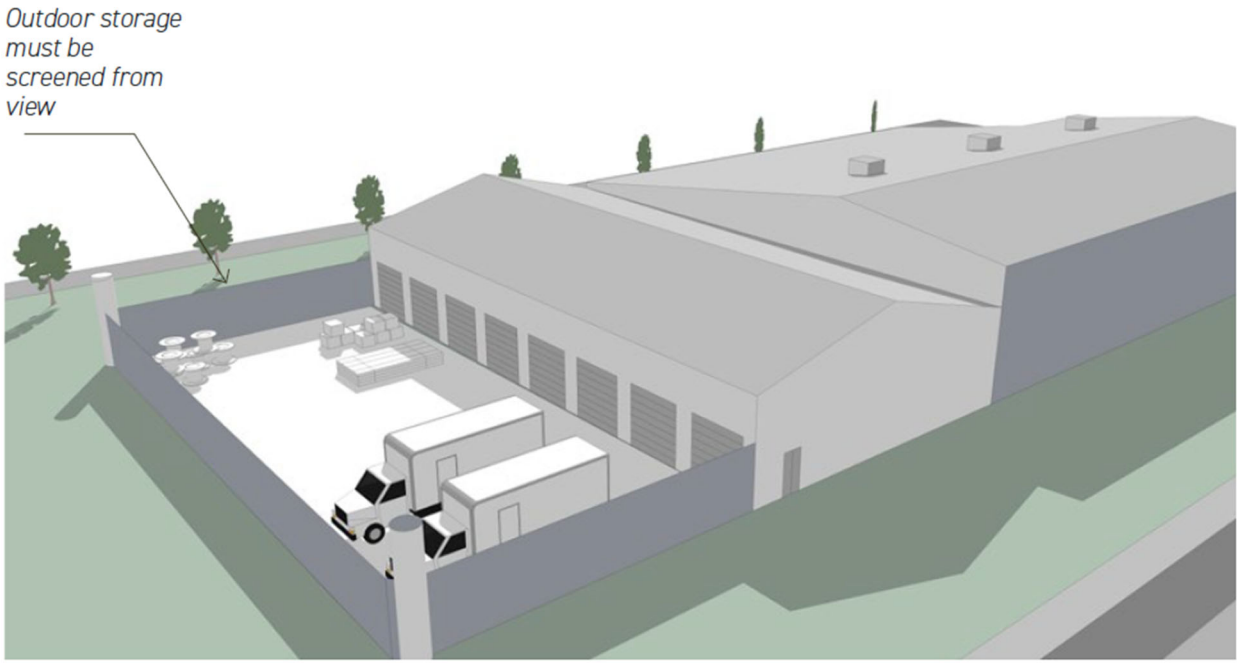



**Figure 36-2-24. View Fencing in the Front Setback Area**



**Figure 36-2-25. Storage Screening**




b. Within the required front setback area, the maximum allowable fence height is eight feet if two feet consists of view fencing. If opaque fencing is applied, the maximum height is six feet.

c. The finish of walls and fences shall be constructed of durable materials manufactured for exterior use and shall be weather and decay-resistant, which are compatible with the adjacent building(s) in regard to materials, detailing, and color. Acceptable materials include:

   i. Stucco over concrete masonry units (CMU).

   ii. Split face block.

   iii. Brick.

   iv. Stone.

   v. Curved interlock blocks.

   vi. Gabions.

   vii. Tubular steel, wrought iron bars, or other grill work.

d. Unfinished solid CMU or chain link are acceptable materials, except in areas visible from the public rights-of-way.

e. The use of razor ribbon (concertina), barbed wire, or cyclone fencing is prohibited.

f. Any required screening of mechanical equipment and support/services areas shall be accomplished by one of the following:

   i. An architectural building element, such as a wing wall, that screens the equipment or area being screened;

   ii. A wall or fence of a height equal to or greater than the height of the equipment or area being screened. Walls or fences shall incorporate at least one of the primary materials and colors of the nearest wall of the primary building; or

iii. A vegetative screen planted along the full length of the equipment or area to be screened of a height equal to or greater than the height of the equipment or area to be screened at the time of planting.

viii) Signage

a. All signs shall comply with **Sec. 38-10. Signs** except as outlined below.

b. All signs shall be designed in accordance with the Overlay Zone District's adopted signage plans and regulations.

c. At key locations such as intersections, joint tenant/monument signs shall include language in Spanish, Braille and larger print for sight-impaired populations.

d. Vehicular directional signage within public right-of-way or on City property shall be exempt from signage standards.

e. Freestanding Monument Signs.

i. Freestanding monument signs will be limited to a maximum of one per street frontage.

ii. The maximum signage size shall not exceed 450 square feet for lots adjacent to interstate frontage. The maximum signage size for all other lots shall not exceed 50 square feet.

iii. The maximum height shall not exceed 80 feet for lots adjacent to interstate frontage. The maximum height for all other lots shall not exceed 18 feet.

iv. Monument signs shall match the architectural style, color, materials and ornamentation of the primary building(s).

v. For all lots with more than one monument sign, all signs shall be of uniform design and materials.

vi. Free standing monument signage is permissive at the primary park entrances.

vii. The maximum height for directional signage is 6 feet.

f. Building Mounted Signs

i. Building mounted sign size shall not exceed ten percent of the building facade to which it is applied.

ii. Building mounted signs may not project more than 15 inches from the wall.

iii. Building mounted signs shall have contrasting colors from the background and text height and font that ensures readability, but must blend with the architectural style, color, materials and ornamentation of the main building(s).

iv. No building mounted sign shall intrude upon architectural features including windows, columns, or canopies or decorative features.

g. Temporary Signage

i. Temporary construction signs shall be permitted in accordance with the **Sec. 38-10. Signs**, with the following exceptions:

(a) For properties less than ten acres, one sign is permitted not to exceed 64 square feet in sign area and eight feet in height.

(b) For properties in excess of ten acres, one sign is permitted not to exceed 96 square feet in sign area and eight feet in height.

h. Prohibited Signage

i. The following sign types are prohibited within the Las Cruces Innovation and Industrial Park:

(a) Banners.

(b) Billboards.

(c) Portable or temporary signs, except for those permitted above.

(d) Window Signs.

i. Signage Illumination

i. Exterior and interior illumination will be allowed for both attached and freestanding signs, provided they comply with the following standards:

(a) Signs that are illuminated shall have concealed lighting fixtures. This provision applies also to neon tubing and fluorescent fixtures.

i) Definitions for the LCIIP, Las Cruces Industrial Innovation and Industrial Overlay Zone District

i) Accessory, Commercial/Office Uses

Any offices and commercial services and food, beverage uses listed in **Figure 36-2-17. LCIIP Use Table**. These uses must be incidental to the primary use.

ii) Accessory, Residential Use—Non-Primary

An accessory dwelling on a nonresidential premise, occupied by the person who oversees the nonresidential operation 24 hours a day.

iii) Cannabis Cultivation and Cannabis-Infused Products Manufacturing

A facility in which cannabis is grown, harvested, dried, cured, or trimmed. This use may also include the process in which a product is infused with cannabis that is intended for use or consumption other than by smoking including but not limited to, edible products, ointments, and tinctures.

iv) Commercial Services and General Retail

An establishment providing for the retail sale of general merchandise or food directly to the consumer; this includes, but is not limited to, sale of general merchandise, clothing and other apparel, flowers and household plants that are not grown on-site, dry goods, convenience and specialty foods, hardware and similar consumer goods, or other retail sales.

v) Construction Contractor Facility and Yard

A building and related outdoor area used to store and maintain construction equipment and materials including, but not limited to, plumbing, electrical, carpentry, roofing, and landscaping, and facilities customarily required in the building trade by a construction contractor. Any outside storage is required to be screened with an opaque fence.

vi) Contemporary Style Architecture

The use of innovative and new construction technologies and materials with a focus on steel, reinforced concrete, and glass, clean lines and a form that follows function.

vii) Drainage and Major Utility, Other

A facility regulated as a public utility or common carrier by the state or other relevant jurisdiction or agency, including, but not limited to, major telephone facilities, natural gas facilities, water treatment plants, water pump stations, sewage treatment plants, stormwater drainage facilities, irrigation facilities, or similar public services. Major facilities are those sized or designed to serve the entire park, or a wide area of the park.

viii) Film and Media Production

Outdoor or enclosed entertainment-related facilities including, without limitation, movie studios and production facilities, distribution facilities, editing facilities, catering facilities, printing facilities, postproduction facilities, set construction facilities, sound studios, special effects facilities and other entertainment-related production operations.

ix) Fire and Police Station

A public facility operated by a governmental agency where fire engines and other equipment are housed, and from which calls for emergency fire responses are handled. This use may include administrative offices, storage of equipment, temporary detention facilities, and the open or enclosed parking of patrol vehicles excluding, however, correctional institutions.

x) Fleet Vehicle

Any vehicle owned or operated by the person, company or business which is used for purposes of delivery, pick up or service to patrons of the primary use. A fleet vehicle may also be a commercial vehicle.

xi) Fleet Vehicle Parking

Parking of fleet vehicles.

xii) Freight House or Truck Terminal

Property or building used primarily for freight pick-up or distribution and the temporary parking of trucks of common or contract carriers during loading or unloading, including necessary warehouse space for storage of transitory freight. May also include intermodal distribution facilities for truck or shipping transport. Accessory uses may include, but are not limited to, a truck wash and loading and unloading from rail spurs.

xiii) General Agriculture

Any use of land for the purpose of production of crops and horticulture specialties, the raising of livestock and poultry, and the processing, packaging, storage and sale of agricultural products which are raised on the premises, and including all the types of structures normally associated with these uses, such as storage bins, barns, sheds, tool houses, greenhouses, garages, and any other use or facility ancillary to farming or open land. This use may also include the growing of plants for wholesale or retail sales, which may take place outside or in greenhouses. Outdoor sales of plants are allowed.

xiv) Heavy Manufacturing

Mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the manufacturing of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors. This use ordinarily creates a greater than average impact on the environment or has significant impacts on the use and enjoyment of other properties in terms of noise, smoke, fumes, odors, glare, or health or safety hazards. However, this use does not include processes that input or create hazardous byproducts, as defined by federal regulation, in the course of manufacturing, assembly, fabrication, or materials treatment, or that uses manufacturing, assembly, fabrication, or treatment processes that create potentially hazardous impacts including, but not limited to, explosions or leakage of nuclear or electromagnetic radiation into the environment or surrounding areas. These processes are covered under the special manufacturing zone.

xv) Higher Education, Vocational School

A private institution that provides full-time or part-time education beyond high school, including college, university and vocational schools that provides specialized training and education beyond the high school level.

xvi) Indoor Entertainment/Recreation Venues

A commercial indoor entertainment venue where food, nonalcoholic beverages or other refreshments may be obtained for consumption on the premises and where floor shows, bands or other forms of entertainment may be provided for customers. This use also includes health club or gyms, and non-medical service establishment intended to maintain or improve the physical condition of persons.

xvii) Light Manufacturing

Assembly, fabrication, or processing of goods and materials, primarily conducted within an enclosed building, which is designed, built and maintained so as to prevent smoke, noise, glare, dust, odors or other development impacts from being detected beyond the boundaries of the property. Assembly, fabrication, or processing may include compounding, processing, assembling, packaging or testing of goods. This use does not include any use that meets the definition of Heavy Manufacturing or Special Manufacturing.

xviii) Military and Law Enforcement Agency

A public facility operated by the federal government where engines and other equipment are housed. This use may also include administrative offices, storage of equipment, and grounds for training and practice.

xix) Natural Resource Extraction

On-site extraction of surface or subsurface mineral products or natural resources, including solids, such as coal and ores; liquids, such as crude petroleum; and gases, such as natural gases. Uses may include quarries, borrow pits, sand and gravel operation, mining, soil mining, rock crushing, screening, and the accessory storage of explosives

xx) Nightclub and Bar

An establishment that is devoted to the selling or serving of alcoholic beverages for consumption by patrons on the premises and in which the serving of food is only incidental to the consumption of those beverages, including taverns, nightclubs, cocktail lounges and cabarets.

xxi) Offices and Research Facility

A premise where professional, clerical, business management or public administration work is carried out and where the sale of merchandise on the premises is totally absent or a very limited activity in support of the work being carried on. This use may also include a medical or dental clinic for patients that are not lodged overnight and research and testing facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

xxii) Outdoor Entertainment

An outdoor commercial or entertainment activity that is open to the general public. This use may include outdoor markets, drive-in theater, stadium or other entertainment and recreation activities like batting cages, golf driving ranges, miniature golf courses, go-cart tracks, skating rinks, skateboard parks, swimming pools, tennis courts, or sports courts.

xxiii) Outdoor Storage

The keeping of any goods, material, or merchandise outside of a building in the same place.

xxiv) Parking Garage with/without Liner Building

A combination of structures for parking and a mix of uses (commercial, residential, office) where parking is designed to be concealed from view and levels of parking are at- grade, above grade, or partially below grade (but not fully underground). A liner building is a specialized building that may be built as part of the parking structure or separate; it is parallel to the street and designed to conceal a parking structure from the street with active ground floor uses such as retail shops or residential stoops. A parking garage may be designed without a liner building provided that it is designed in such a way so as to incorporate active ground floor uses, architectural features and articulated elements to mitigate blank walls and screen parking.

xxv) Recycling Sort Facilities and Electronic Recycling

A facility that sorts reusable materials in preparation for introduction into an industrial process by which the material is transformed into a new product in such a manner that the original identity as a product is lost. Material is limited to paper, plastic, and metal as well as electronics recycling.

xxvi) Small Animal Facilities

A facility that serves small animals for their care and treatment. This use may include outdoor pens for temporary animal holding. This use does not include animal raising.

xxvii) Solar Energy Generation

The use of land or buildings as locations for mounting of solar collectors or other devices that rely on sunshine as an energy source and are capable of collecting, distributing, or storing the sun's radiant energy.

xxviii) Special Manufacturing

Mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the manufacturing of products, and the blending of materials, such as lubricating oils, plastics, resins. This use ordinarily creates a greater than average impact on the environment or has significant impacts on the use and enjoyment of other properties in terms of noise, smoke, fumes, odors, glare, or health or safety hazards. This use includes processes that input or create hazardous by-products, as defined by federal regulation, in the course of manufacturing, assembly, fabrication, or materials treatment, or that uses manufacturing, assembly, fabrication, or treatment processes that create potentially hazardous impacts including but not limited to explosions or leakage of nuclear or electromagnetic radiation into the environment or surrounding areas.

xxix) Telecommunications, Towers, and Utilities

Any facility used for wireless communications, usually consisting of a support structure for antennas, equipment shelters or cabinets, and/or other transmission and reception devices used for business or commercial purposes.

xxx) Temporary, Construction Staging Area, Trailer, or Office

Temporary use of a structure, including a mobile office, as a construction site office by a building contractor while a specific project is under construction, or as a real estate office during the construction and initial marketing phase of a new development.

xxxi) Temporary, Seasonal Outdoor Sales, Events

Temporary outdoor or indoor retail display and sales of new or used goods, produce, and/or handcrafts or services associated with the season or a cultural event such as sales of fireworks, pumpkins, Christmas trees, or other seasonal items; semi-annual sales of art or handcrafted items in conjunction with community festivals or art shows; sidewalk or parking lot sales. Incidental sales of food and beverages is allowed.

xxxii) Vehicle Services

Commercial services dealing with vehicles. This use may include car wash, vehicle and equipment sales, rental, fueling, recreational vehicle parking stalls and hook-ups, and repair.

xxxiii) Warehousing, Logistics and Distribution

Building or premise in which goods, merchandise or equipment are stored and frequent heavy trucking activity may occur. Open storage of material, or nuisances such as dust, noise, and odors may be part of this use.

4. SMO, South Mesquite Overlay District

   a) Purpose

      The South Mesquite Overlay District is designed to positively address issues unique to Las Cruces' Original Townsite and surrounding area. This area is addressed in the 2005 adopted Mesquite Neighborhood Plan and the 2007 adopted Mesquite Historic District Neighborhood Design Plan. Specific provisions in this Ordinance deal with issues such as compatible design, parking, setbacks, and land use/zoning designations that are better suited to this older part of the city characterized by smaller lots with multiple dwellings and scarce off-street parking resources. Additionally, neighborhood design guidelines and standards have been created that will help enhance and preserve the unique character of Las Cruces' first neighborhood.

   b) Delineation of Overlay District Boundaries

      The South Mesquite Overlay (SMO) District shall include all properties located within the boundaries shown on **Figure 36-2-26**.

**Figure 36-2-26. South Mesquite Overlay Boundaries**

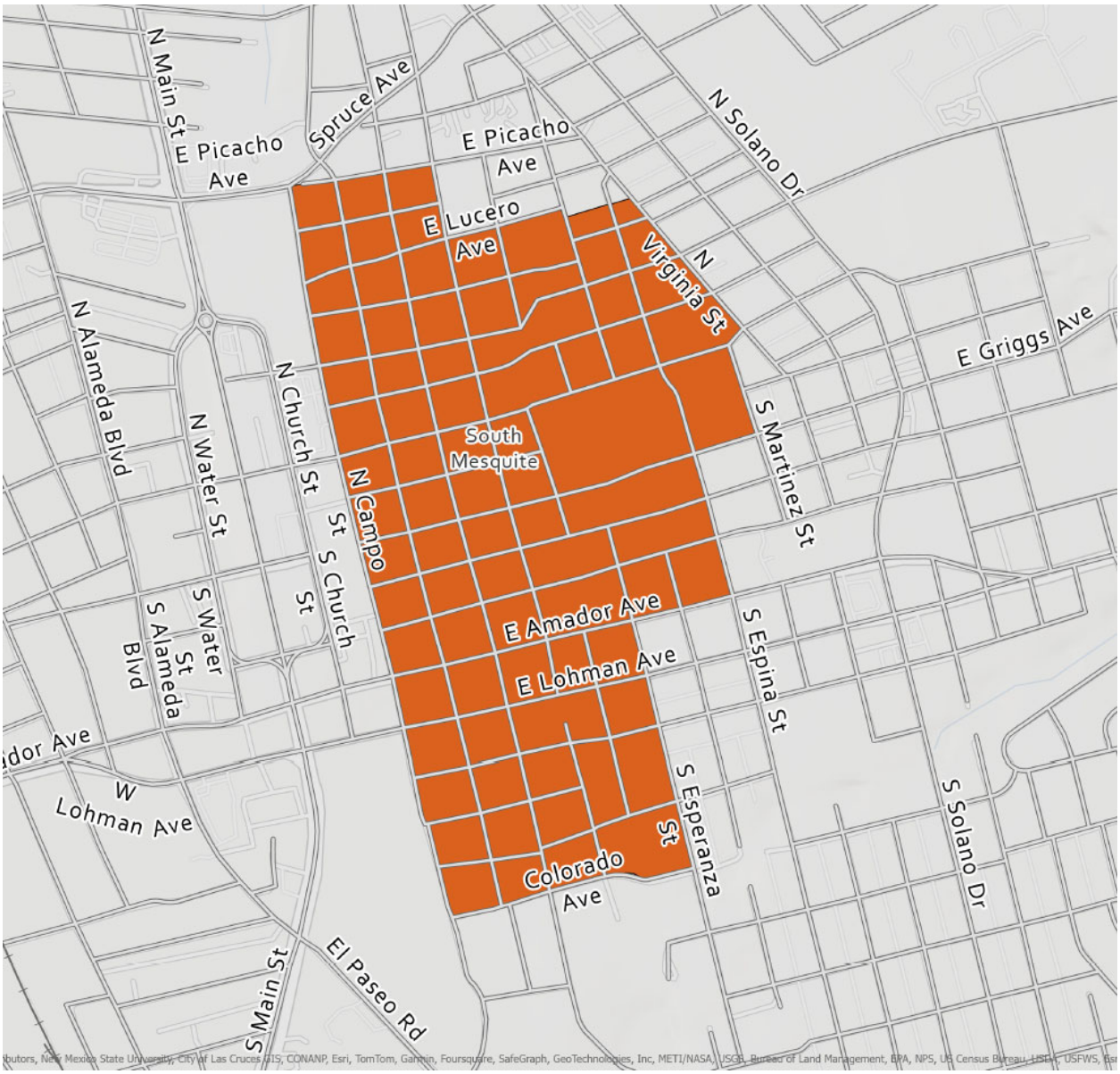


**Figure 36-2-27. Boundary of the Mesquite Street—Original Townsite State & Federal Historic Districts**



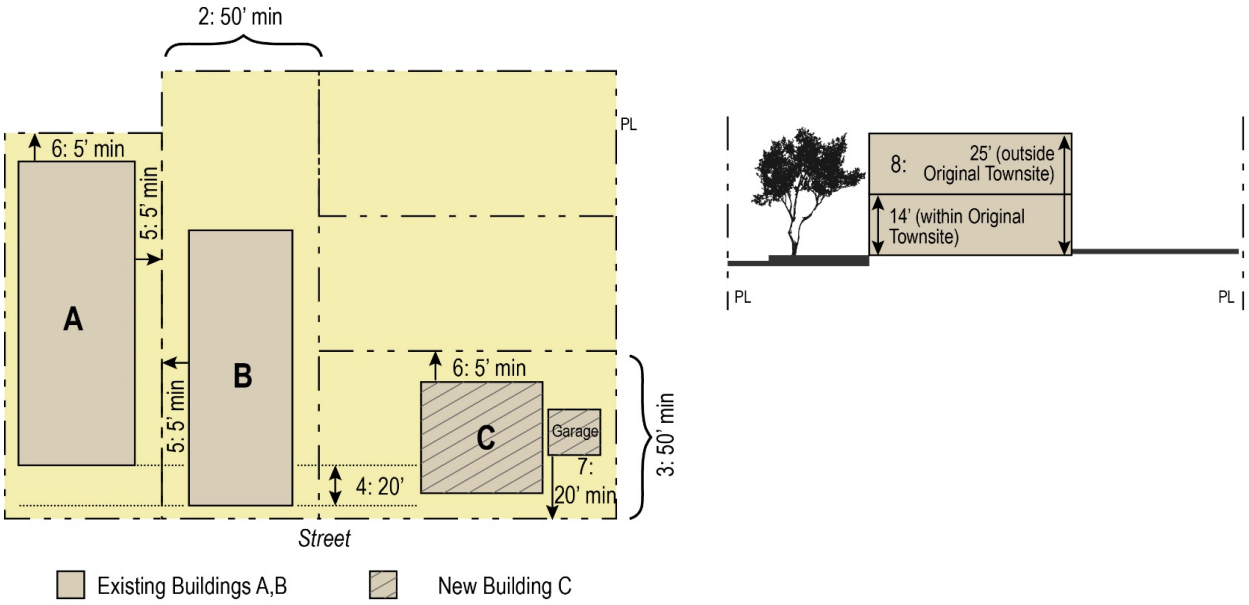
c) Development Standards

There shall be no development or alteration of the lands, uses, or structures within the SMO except as provided for by this Section, other sections of the Zoning Regulations, and other City Codes and Ordinances where applicable. Development requirements are established for the entire SMO, as follows (unless indicated in other sections of this Overlay):

**Figure 36-2-28. SMO Development Standards**

| | | |
|---|---|---|
| #1 | Lot Area/Size | 3,500 square feet minimum |
| #2 | Lot Width/Frontage | 50' minimum |
| #3 | Lot Depth | 50' minimum |
| #4 | Front Setback | Within the range of existing setbacks and compatible with the surrounding area* |
| #5 | Side Setback | 5' minimum** |
| #6 | Rear Setback | 5' minimum** |
| #7 | Garage Setback | 20' minimum |
| #8 | Building Height | 14' in the Original Townsite and 25' elsewhere*** |
| | Townhouses | Zero lot lines are permitted for townhouse development provided the structure meets the attachment requirements of **Sec. 36-4.B. Single-Family Home, Duplex, Triplex, or Quadplex, and Townhouse Residential Development**. |
| | Accessory Structures | There shall be no limit to the number or square footage of accessory structures |
| | Residential Density | Lot size, setbacks, parking requirements and building heights shall determine residential density per property. |

* Surrounding area generally mean all primary structures on the same side of the block. If there aren't at least two primary structures on the same side of the block, both sides of the block shall be used. The Applicant shall work with Community Development Department staff to determine a front setback distance with staff having the final determination.
** Overhangs are not permitted within required setbacks. Canales and viga ends are not deemed overhangs for the purpose of this limitation.
***Any requests for building heights greater than those stated above require an application for a height exception be reviewed and approved by the SMDRB; applications shall meet the design criteria noted in **Sec. 36-2.D.4.j). Design Guidelines**.
The regulations of this Overlay District shall supersede any regulations of the Zoning Regulations. However, when the regulations of this SMO do not address a particular design or development standard or regulation, the applicable local, state, or federal regulation shall apply. Numerical Flexible Development Standards may be granted by the Community Development Director or non-numerical Flexible Development Standards by the Development Review Committee within the SMO; however, such requests must also be approved by the SMDRB.



d) Landscape Requirements

Landscaping shall follow standards set forth in **Sec. 38-7. Landscaping** with the following modifications:

i) Applicability

Landscaping standards apply to all new development in the SMO with the exception of single family dwellings and duplexes, unless noted elsewhere in this section.

ii) A variety of landscaping materials shall be employed to create visual interest and complement other plantings in the neighborhood. Care should be taken when planting too close to adobe structures, which can be damaged by plant watering. Plant materials, including shade trees, shall be native and/or draught tolerant, as these are best suited to the Chihuahua Desert. This is not to say that the landscape plan needs to adhere to Xeriscaping. On the contrary, plants should be chosen that will survive and thrive in the local climate. Appropriate species include, but are not limited to, the following:

**Figure 36-2-29. Permitted Plant Types**

| TREES | SHRUBS | GROUNDCOVER |
|---|---|---|
| Arizona Ash<br>Arizona Cypress<br>Arizona Mesquite<br>Canyon Hackberry<br>Chinese Pistache<br>Desert Willow<br>Italian Cypress<br>Lacebark Elm<br>Palo Verde<br>Pecan<br>Pines<br>Southern Live Oak<br>Texas Honey Mesquite<br>Texas Red Oak<br>Sycamore<br>Western Hackberry | Euonymus<br>Pyracantha<br>Sages (Texas, Desert Chihuahuan, Cherry, Russian, etc.)<br>Silverberry<br>Spanish Broom | Bermuda<br>TIFF, various<br>Vinca<br>Trailing Rosemary<br>Iceplant<br>Creeping Thyme<br>Powis Castle Artemesia<br>Dalea capitata<br>Clover Fern |

iii) All new development, except single-family dwellings and duplexes, and adaptive reuse of properties (such as a change of use) shall be required to plant trees within parking lots for shade and visual relief (see subsection 5 below).

iv) Landscaping gravel, decorative stone or other organic landscaping materials may be used for landscaping, provided such materials blend visually with other landscaping material and planting style standards and meet the City's wind erosion control ordinance).

v) Landscaping for Parking Lots: All new construction, except single-family dwellings and duplexes and adaptive reuse of properties, shall require landscaped parking areas. Landscaping in parking areas shall follow **Sec. 38-7. Landscaping**, **Sec. 38-7.D.5. Parking Lot Landscaping**, with the following modifications:

a. Trees in parking lots shall be located in an island or planter in which the tree trunks shall be protected from motor vehicles. Islands shall be a minimum of six feet wide, have a minimum area of thirty-six (36) square feet and a raised border of at least four (4) inches in height.

b. One tree shall be planted for every five (5) parking spaces within parking lots as they pertain to the uses listed for each area.

vi) The HPC shall have the authority to modify or waive landscaping requirements of **Sec. 38-7. Landscaping** or this Section if the HPC determines that such modification would result in a project that better advances the purposes of the SMO and positively addresses it design standards.

vii) Community Development Department staff shall review landscape plans.

e) Permitted Uses

There shall be no land uses within this Overlay District except as identified in **Figure 36-2-30. SMO Permitted Use Chart**. Zoning districts are as follows:

i) R-la: Single-family Low Density Residential District

ii) R-2: Medium Density Residential District

iii) R-3: High Density Residential District

iv) R-4: High Density Residential and Limited Office District

v) O-1: Neighborhood Office District

vi) O-2: Professional Office with Limited Retail Service

vii) C-1: Neighborhood Commercial District

viii) C-2: General Commercial District

ix) C-3: High Density Commercial. C-3 zoning and land uses are not permitted in the Overlay District with the exception of those uses which existed at the time of SMO adoption, Ordinance 2200, May 24, 2005. Uses that were pre-existing at the time of adoption and are no longer permitted by right shall be considered non-conforming and shall follow the provisions of **Sec. 36-2.D.4.f). Nonconforming Uses, Structures, and Property** below and **Sec. 36-5.G. Nonconformities**.

x) PUD: Planned Unit Developments are allowed as part of a specific rezoning.

**Figure 36-2-30. SMO Permitted Use Chart**

Legend:

A= Allowed-by-right;

C=Conditional Use with the conditions noted; and

S= Special Use Permit with public meeting required.

| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
|---|---|---|---|---|---|---|---|---|---|
| Accessory dwelling units | A | A | A | A | A | A | A | A | |
| Apartments | | A | A | A | A | A | A | A | |
| Assisted Living, Retirement home | | A | A | A | A | A | A | A | |
| Detached single-family dwelling | A | A | A | C | C | C | C | C | C: residential densities in R-4 and commercial zones limited to a maximum of 40 DU/acre. |
| Guest dwelling unit | C | C | C | C | C | C | C | C | C: see **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #19 Accessory Dwelling |
| Duplex | | A | A | A | C | C | C | C | C: residential densities in R-4 and commercial zones limited to a maximum of 40 DU/acre. |
| Triplex | | A | A | A | A | A | A | A | |
| Quadplex | | A | A | A | A | A | A | A | |
| Home for the Elderly | A | A | A | A | A | A | A | A | |
| Home for the Disabled | C | C | C | A | A | A | A | A | C: 10 or fewer persons allowed |
| Hostel | | | | C | C | C | C | C | C: limited to 10 persons per establishment and a maximum stay of 14 continuous days per guest. |
| Nursing Home | C | C | C | A | A | A | A | A | C: 10 or fewer persons allowed |
| Halfway house | S | S | S | S | S | S | S | S | See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #18 Sober Living House |

| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
|---|---|---|---|---|---|---|---|---|---|
| Fraternity/sorority house | | | C | C | C | C | C | C | C: Limited to 10 persons per establishment; |
| Temporary/homeless shelter | S | S | S | S | S | S | S | S | |
| Manufactured home | A | A | A | C | C | C | C | C | All manufactured homes shall meet the design standards of the SMO and skirting and exterior wall materials shall be consistent with the architecture of adjacent structures. Residential densities in R-4 and commercial zones are limited to a maximum of 40 DU/acre. |
| Townhouse [one room attached to the neighboring single-family dwelling] | | A | A | A | A | A | A | A | |
| Patio home [100% built to side property line] | C | C | C | C | C | C | C | C | C: see **Sec. 36-4.B. Single-Family Home, Duplex, Triplex, or Quadplex, and Townhouse Residential Development**. |
| Accessory uses and structures | A | A | A | A | A | A | A | A | |
| Bed & Breakfast Establishment | C | C | C | C | C | C | C | C | C: Number of guest rooms is limited to 8. |
| Greenhouse, private (non-commercial) | A | A | A | A | A | A | A | A | |
| Community Gardens (neighborhood based) | A | A | A | A | A | A | A | A | |
| Home occupations | C | C | C | C | C | C | C | C | C: See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #23 Home Occupation |
| Kennel/cattery, private residential | C | C | C | C | C | C | C | C | C: Permitted in accordance with Chapter 7 of the LCMC; noise from barking dogs and odors from this activity shall not be discerned off the premises. |
| Recreational court, tennis, etc., private | S | S | S | S | S | S | S | S | Must mitigate off-site noise and light glare. |
| Storage of RVs and motor vehicle appurtenances | C | C | C | C | C | C | C | C | C: Maximum 1 per parcel located within any open area between the front setback and the rear setback and shall otherwise meet the standards of **Sec. 38-2.N.6.g) Parking and Storage of Large Motor Vehicles** |
| Swimming pool, private | C | C | C | C | C | C | C | C | C: A swimming pool shall be at least 5 feet from property lines; also see **Sec. 38-8.F.1. Swimming Pools, Whirlpools, Hot Tubs, and Other Similar Structures**. |
| Temporary uses | C | C | C | C | C | C | C | C | C: See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #35 Seasonal/Temporary Sales or Use |
| Produce stands | C | C | C | C | C | C | C | C | C: Allowed per State law; may be accessory to community gardens. |
| Veterinary facility | | | | | | | | C | C: Noise from barking dogs shall not be discerned off the premises. |
| Cemetery/columbarium | S | C | C | C | C | C | C | C | C/S: See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #43 Cemetery or Columbarium |
| Family child care home (up to 6 children) | A | A | A | A | A | A | A | A | See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #37 Child Care Home (≤6). |
| Group child care home (7 to 12 children) | S | A | A | A | A | A | A | A | S: See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #38 Group Child Care Home (7-12) |
| Child care center or preschool | | S | S | S | S | S | S | S | S: See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #36 Child Care Center. |

| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
|---|---|---|---|---|---|---|---|---|---|
| Community buildings/uses | C | C | C | C | A | A | A | A | C: Shall be located on a major local or higher classification road. |
| Convention center/exhibition hall | | | | | C | C | C | C | C: Must be accessed from an arterial road (Lohman, Amador); size is limited to 5,000 GFA. |
| Library/museum | | A | A | A | A | A | A | A | |
| Religious institutions | C | C | C | C | C | C | C | C | C: Shall be located on a major local or higher classification road; all sites shall have a minimum 1 acre; structures or parking located within 25 feet of a residential use shall provide an opaque buffer consisting of landscaping and walls or fences. Dumpsters or other garbage collection facilities shall not be located within 25 feet of a residential use. |
| School, college, trade school, private or public | S | S | S | S | S | S | S | S | S: On a case-by-case basis, application shall address safe access, off-street parking demand, screening and landscaping, noise and other relevant impacts of the development on adjacent residential uses. Structures or parking located within 25 feet of a dwelling unit shall provide a Type A opaque buffer consisting of landscaping and walls or fences. Dumpsters or other garbage collection facilities shall not be located within 25 feet of property used for residential purposes. |
| Arcade, game room | | | | | | | A | A | |
| Batting cage, indoor | | | | | | | A | A | |
| Billiard, Pool Hall | | | | | | | A | A | |
| Bowling alley | | | | | | | A | A | |
| Miniature golf course | | | | | | | | A | |
| Health/exercise club/gymnasium/sports instruction | | | | C | C | C | C | C | C: Noise from this activity shall not be discerned off-premises. |
| Park | C | C | C | C | C | C | C | C | C: Limited to neighborhood park or private park. See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #52 Public Park. Public parks shall also comply with Chapter 20 of the LCMC. |
| Mini-race tracks (e.g., go carts) | | | | | | | | C | C: Hours of operation limited to between 10 a.m. and 10 p.m. |
| Recreation courts, public | | | S | S | S | S | S | S | S: Must mitigate off-site noise and light glare. |
| Skating rink, Indoor | | | | A | A | A | A | A | |
| Swimming pool, commercial or public; indoor only | | | | | S | S | S | S | |
| Botanical garden | | | | A | A | A | A | A | |
| Personal or business service office uses | | C | C | C | A | A | A | A | C: In R districts, non-residential uses are permitted only on the ground floor; no more than 35% of the GFA of the buildings on the parcel, combined, is permitted to be non-residential uses. |
| Art studio | | C | C | C | C | C | C | C | C: Noise from activities shall not be discerned off the premises. |
| Barber/beauty/hair salon and related personal care services | | A | A | A | A | A | A | A | |
| Medical/dental office; counselor/therapy services | | A | A | A | A | A | A | A | |
| Bank, bonding, and financial | | | | | | C | C | C | C: Each business establishment is limited to a sole practitioner and only one such business establishment per parcel. |

| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
|---|---|---|---|---|---|---|---|---|---|
| institution/facility; no drive-through | | | | | | | | | |
| Business office: consulting; credit reporting & collection; desktop publishing, graphic design; institutional office, public or private; educational office; religious office; philanthropic office; mailing & stenographic services; motion picture production; noncommercial research organization | | | | | A | A | A | A | |
| Adult day care services/facility | | | | | A | A | A | A | |
| Funeral home; laboratory | | | | | A | A | A | A | |
| Pharmacy; no drive-through | | | | | | C | C | C | C: Permitted only as accessory to a medical, dental or similar office use and strictly for the purpose of serving the patients of the medical office use. |
| Auto/truck parts store | | | | | | | | A | |
| Auto/truck repair & service | | | | | | | | C | C: No salvage yard or related activities shall be permitted. No outside storage of parts, materials, or equipment is permitted. All outdoor storage of non-operable vehicles must be screened with opaque fencing. |
| Auto/truck self-service/automated or full service wash/wax/detailing | | | | | | | | C | C: Limited to a collector or higher classification road. |
| Bar/pub/tavern (no dancing) | | | | | | | | A | |
| Sale of building material | | | | | | | | A | |
| Café, cafeteria, coffee shop, restaurant, etc. No drive-thru | | | | A | A | A | A | A | |
| Cannabis dispensary | | | | | | | | A | See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #107 Cannabis Dispensary. |
| Cannabis indoor agriculture | | | | | | | A | A | See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #108 Cannabis Production. |
| Cannabis microbusiness | | | | | | | A | A | See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #109 Integrated Cannabis Business. |
| Sale of carpet/window treatments | | | | | | | C | C | |
| Cleaning & maid services | | | | | | | A | A | |
| Clothing store | | | | | | | | C | |
| Convenience store (no gas sales) | | | S | S | S | S | S | S | C: No drive-through facility. |
| Delicatessen, produce/meat market; No eating facilities | | | | A | A | A | A | A | |
| Delicatessen, produce/meat market with eating facilities | | | | | | | C | C | C: No drive-through facility. |
| Firewood sales | | | | | | | | C | C: If displayed outside a building, a semi-opaque screen around the perimeter of the use shall be |

| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | provided; 20 cord maximum stored on site; see **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #35 Seasonal/Temporary Sales or Use. |
| Furniture store | | | | | | | | A | |
| Sale of garden supplies | | | | | | | | A | |
| Grocery store | | | | | | | A | A | |
| Hardware store | | | | | | | C | A | C: No outside storage of supplies or materials. |
| Home furnishings | | | | | | | A | A | |
| Kennel/cattery, commercial or non-profit | | | | | | | | C | C: Use allowed in accordance with Chapter 7 of the LCMC; noise from barking dogs shall not be discerned at the nearest dwelling unit. |
| Laundry/dry cleaning services | | | | | | | A | A | |
| Newspaper distribution | | | | | | | | A | |
| Pawn shop | | | | | | | | A | |
| Petroleum/propane sales | | | | | | | | C | C: Sale of portable propane tanks and similar gas only is allowed as an accessory use to a retail establishment; use of such equipment is allowed as an accessory use when meeting current Fire Code standards. Gas stations are not permitted. |
| Plant nursery | | | | | | | | A | |
| Private club or lodge | C | C | C | C | C | C | C | C | C: See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #90 Private Club or Lodge. A private club or lodge shall be located on a major local or higher designated street. Structures or parking located within 25 feet of a dwelling unit shall provide a Type A opaque buffer consisting of landscaping and walls or fences. Dumpsters or other garbage collection facilities shall not be located within 25 feet of property used for residential purposes. |
| Radio/TV station | | | | | | | | A | |
| Seasonal sales of fireworks, agricultural products (non-temporary), snowcone stand, etc. | | | | | | | C | C | C: All structure locations shall meet setback requirements; if sited on property with other uses, there shall be no obstruction of the driving aisles or parking stalls unless it can be proven that there is an excess of parking areas. If the use does not follow temporary use provisions, the property shall be subject to all applicable development requirements. |
| Small item repair shop | | | | | | | A | A | |
| Specialty foods store (bakeries, candies, etc.) | | | | | | | A | A | |
| Specialty store (books, music, toys, sports equip, stationary, etc.) | | | | | | | A | A | |
| Telephone communication business (call center) | | | | | | | | A | |
| Temporary Use (non-seasonal) | | | | C | C | C | C | C | C: See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #35 Seasonal/Temporary Sales or Use. |
| Theater (non-drive in) | | | | | | | | A | |
| Tire sales/repair | | | | | | | | A | |
| Upholstery shop | | | | | | | A | A | |
| Variety store | | | | | | | A | A | |

| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
|---|---|---|---|---|---|---|---|---|---|
| Video/DVD rental/sales (non-adult oriented) | | | | | | | A | A | |
| Cab stand | | | | | | | | A | |
| Distribution centers | | | | | | | | A | |
| Parking facilities, commercial (garages & parking lots) | S | S | S | S | S | S | S | S | |
| Storage outside of buildings of materials, equipment, and supplies not for sale | | | | | | | | C | C: All outside storage shall be enclosed with an opaque, Type A screen. |
| Storage, warehousing accessory to office, retail trade, service, or industry businesses | | | | | | | | C | C: Maximum of 95% of the total square footage may be used for this storage. |
| Storage/display of merchandise for sale (except manufactured buildings, manufactured homes, mobile homes & operable cars, trucks, motorcycles, and RVs) | | | | | C | C | C | C | C: Outdoor display of goods sold on the premises is limited to 25% of the gross floor area devoted to the business use. |
| Wholesale trade, any product | | | | | | | | C | C: No outdoor storage allowed. |
| Construction yard or buildings, temporary | C | C | C | C | C | C | C | C | C: See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #31 Construction Building (Temporary) and 32 Construction Yard (Temporary): Such yard or building(s), including a mobile home or recreational vehicle for a temporary residence or construction office, or any other facilities or arrangement approved by the Community Development Director shall be removed upon completion of construction and in compliance with the Chapter 30 of the Municipal Code. Construction yards and buildings or any other facilities shall be maintained in a neat and orderly fashion. Open yards shall be enclosed by a fence at least five (5) feet in height. |
| Contractor's Yard | | | | | | | | C | C: All outdoor storage shall be enclosed with an opaque Type A screen |
| Cottage Industry with retail sales or service (manufacture or processing of goods such as beer or food products for sale on the premises) | | | | | | | C | C | C: Allowed only when such use occurs within a totally enclosed building where the primary use (retail/service) is conducted. The processing of goods shall be clearly secondary to the primary use, shall be sold on-site only, and shall not pose any significant adverse impact on adjacent properties due to noise, odor, dust, or vibration. A maximum of 49% of the total business floor area, not to exceed 3,000 square feet, may be used in the conduct of the cottage industry manufacturing or processing. |
| Crematorium | | | | | | | | C | C: See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #95 Crematorium. |
| Antennas, towers, communication structures, and other utility vertical structures | | | | | | | S | S | See **Sec. 38-11. Wireless Communication Facilities**. |
| Facial mounted antennae (attached to the primary use) | | | | | | | C | C | C: Facial mounts must be placed or erected to the primary use/structure in a manner that conceals, to the extent possible, the antenna or face mount. No more than ten (10) additional feet in height to the maximum building height shall be allowed as a result of application or erection of the antenna or |

| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | face mount. **Sec. 38-11. Wireless Communication Facilities**. |
| Private/public utility (e.g., substations, water wells, transformers, regulators, lift stations, telecommunications site) | S | S | S | S | S | S | S | S | See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #53 Public Utilities (Major). A solid wall or fence shall surround the installation. Landscaping as per Sec. 36-2.D.4.d). Landscape Requirements shall be provided to screen and/or buffer the installation as necessary to allow the use to blend with the surrounding properties and minimize noise and visual pollution. |
| Recycling collection centers (neighborhood scale only) | | | | S | S | S | S | S | Hours of operation may be limited to mitigate noise to adjacent residences; equipment rooms and outdoor storage of materials shall be screened with opaque fencing; trash shall be contained and properly disposed of; the DRB and Planning and Zoning Commission may impose conditions to insure that noise, fumes, odors and congestion is avoided. |
| Private "Ham" radio telecommunication antennae | C | C | C | C | C | C | C | C | C: Antennae shall not exceed the building height limit. |

f) Nonconforming Uses, Structures, and Property

i) Many people refer to nonconforming uses as the "Grandfather Clause." If a use, structure, etc., was established legally under the previous code, it is considered a legal nonconforming use or nonconforming or non-complying structure. Except for the following, requirements stated in **Sec. 36-5.G. Nonconformities** shall apply.

ii) If a legal non-conforming use becomes and remains vacant, a two (2) year time limit shall be placed on reestablishing the non-conforming use at that location.

g) Parking Requirements

The following exceptions to the parking requirements found in **Sec. 36-3.A.1. Permitted Use Chart** shall be used in the SMO:

i) Buildings within the SMO constructed prior to 1955 shall not be required to provide off-street parking.

ii) Buildings within the SMO constructed after 1955 shall be required to provide off-street parking pursuant to the requirements of **Sec. 36-3.A.1. Permitted Use Chart**. These buildings and properties shall be eligible to use:

a. The Urban Character Area parking exceptions found in **Sec. 38-2.N.4. Minimum Off-Street Vehicular Parking Requirements**; and/or

b. Surface materials for parking areas for residential or non-residential developments may be pervious materials such as stone or brick pavers or compacted crushed stone (gravel). If gravel is used, single-family and duplex parking areas may use compacted crusher fine or "pea" gravel, but multi-family and non-residential development parking areas shall be limited to using a minimum one-inch diameter size, compacted gravel. Concrete parking pads are not permitted to be installed abutting adobe walls to avoid damage due to "wicking" (transfer of moisture trapped beneath the concrete to the adobe wall).

iii) Parking areas for new development of non-residential and multi-family uses, including garages and carports, are not permitted in the required front setback of the subject property.

iv) The HPC shall have the authority to modify or waive off-street requirements, with the concurrence of the City's Traffic Engineer, if the HPC determines that such modification would result in a project that better advances the purposes of the SMO and positively addresses its design standards.

h) Signage

All signage shall be of materials and design that are compatible with the architecture of the structure and the residential character of the neighborhood. Electronic moving/digital signs are not permitted in the SMO. Sign permit applications shall be submitted for approval to the Community Development Department in accordance with **Sec. 38-10. Signs** with the following modifications:

i) Freestanding Signs

a. Ground signs are allowed and shall be no greater than five feet in height. Only one ground sign per commercial property shall be permitted. Ground signs must be set back at least five feet from any property line and must be at least five feet away from the wall of the building.

b. Ground signs shall be no greater than two square feet in overall size.

c. Ground signs may be illuminated and shall follow regulations stated in **Sec. 38-10.I.3. Sign Lighting**.

d. Temporary Ground Signs are permitted in accordance with **Sec. 38-10.G.12**.

e. Pole signs are allowed only on Lohman and Amador Avenues and shall follow the standards of **Sec. 38-10. Signs**.

ii) Attached Signs

Attached signs shall follow size and placement regulations for attached signage in **Sec. 38-10. Signs**.

iii) Portable A-Frame Signs

An A-frame sign means a self-supporting, portable sign with one or two faces that are adjoined at the top and displayed at an angle, which is designed to be placed where pedestrians walk or gather and ADA accessibility is assured. The sign shall not be permanently anchored or secured and shall be removed at the end of the establishment's business hours.

a. All agents, employees, or representatives displaying an A-frame sign on public property in the DDC shall comply with the following provisions:

i. One A-frame sign per business may be displayed during regular business hours;

ii. A-frame signs shall be no greater than 6 square feet on one side, no more than 12 square feet total, and shall be no greater than 3 1/2 feet in height;

iii. An A-frame sign shall be installed and removed by the business or property owner;

iv. No A-frame sign shall be erected in such a manner so as to obstruct ADA access or vehicular traffic;

v. A-frame signs shall only be displayed immediately in front of the business;

vi. No A-frame sign may be located on public property such as sidewalks or parkways;

vii. The business or property owner shall be responsible for any damage caused to public property by the sign;

viii. The business or property owner assumes all risks with setting up an A-frame sign and shall not hold the City responsible for any accidents or loss in the installation, removal, or operation of the sign.

iv) Inflatable Signs or Pennants

Temporary inflatable pennants, streamers and other fluttering devices shall be permitted for a special event lasting up to 14 days per event and only four such events shall be allowed per parcel per calendar year.

v) Prohibited Signs

The following signs are prohibited:

a. Variable electronic message display boards, whether temporary or permanent.

b. Permanent banners.

c. Pennants, streamers, and other fluttering devices exceeding the time limits of temporary uses noted above.

d. Temporary Ground Signs (e.g., real estate, political, construction, contractor and "coming soon" signs) over 12 square feet in area or over five feet tall.

e. All other signs as prohibited in **Sec. 38-10.D. Prohibited Signs**.

vi) Existing legally permitted signs shall be considered legally non-conforming and shall be regulated in accordance with **Sec. 38-10.L. Nonconforming Signs**.

i) Duties of the Historic Preservation Committee (HPC)

To ensure quality property development and renovation and to protect the historic character of the neighborhood, the design review duties are assigned to the Historic Preservation Committee. In accordance with **Sec. 35-2.B. Duties and Responsibilities of the Historic Preservation Committee**, the HPC shall evaluate and determine the exterior design appropriateness of proposals for new construction, additions, exterior alterations, and rehabilitation of properties within the South Mesquite Overlay.

i) The Historic Preservation Committee is established in **Sec. 35-2. Historic Preservation Committee**.

ii) Duties of the HPC relevant to the South Mesquite Overlay (SMO).

a. The HPC shall review the following permit applications for properties lying within the SMO and shall have final authority on these permits relative to exterior design criteria for:

i. Any new primary structure(s);

ii. Manufactured homes for compliance with SMO design standards, with limitations pursuant to State statute;

iii. Any new accessory structure in excess of 120 square feet;

iv. The conversion of an accessory structure to a primary structure such as a garage or shed to a casita;

v. Additions to an existing primary structure that was constructed 50 years prior to the current building permit application, whether or not it is listed as Contributing on the State or National Mesquite Street-Original Townsite Historic District Inventory. The Applicant shall provide evidence of the year built;

vi. Additions to accessory structures in excess of 120 square feet (one time or cumulative);

vii. Window or door replacement on street-facing facades;

viii. Any alterations to the street facade of the primary structure or any alternations to an accessory structure over 120 square feet in size; and

ix. Any alterations, replacement, or changes to the roof resulting in an alteration of the style of roof of a primary structure or accessory structure over 120 square feet in size.

b. The HPC shall establish criteria for issuance of Certificates of Appropriateness (CoA) which shall reflect the purposes of the design guidelines, standards, and criteria of this Section. These criteria shall be attached to the permit application for Applicants to review prior to submittal.

c. The HPC shall review and make recommendations to the Planning and Zoning Commission for the following:

i. Planned Unit Developments (PUDs) (**Sec. 36-5.D**)

ii. Zoning Variances (**Sec. 36-5.F**)

iii. Special Use Permits (SUPs) (**Sec. 36-5.C**)

iv. Zoning Map Amendments (**Sec. 36-5.A**)

~~iv.~~ Land Use: It is possible to request an additional land use for a specific parcel that is not already noted within the permitted use list within the SMO. Each request will be considered on a case-by-case basis and shall be deemed compatible with neighboring land uses and shall satisfy the purposes of the SMO. The HPC shall be a recommending body to the Planning and Zoning Commission. Final action on this additional land use request shall be made by the Planning and Zoning Commission unless appealed to the City Council.

d. Cases not listed above shall also go before the HPC if design issues related to the historic integrity of the neighborhood are involved or at the discretion of the Department Director.

e. State- or nationally-funded projects requiring review by the State Historic Preservation Officer (SHPO) are exempt from review by the HPC. In New Mexico, "State-funded" includes funding by municipalities.

iii) Decisions of the HPC

a. Members of the HPC shall state the factual basis and the findings of their vote. Findings shall be based on Design Standards found herein, information from staff reports and staff presentations, public comment, and one or more of the following:

i. References to the Zoning Regulations or other applicable codes;

ii. Design Guidelines for the South Mesquite District;

iii. The Secretary of Interior Standards for Rehabilitation;

iv. The New Mexico Historic Cultural Properties Inventory Manual; and

v. Projects other than those requiring approval by the HPC shall be reviewed for compliance with design standards by Community Development staff and are required to meet all other applicable City Codes.

b. Decision of Approval

If the HPC approves an application, it shall articulate the conditions (if any) to the approval and instruct staff to issue a Certificate of Appropriateness (i.e., action form). A copy of the Certificate shall be placed in the case file and a copy shall be provided to the Applicant and to the permitting and inspections sections.

c. Decision of Denial

If the HPC denies an application, the Notice of Decision shall identify the design standards or other requirements of this **Sec. 36-2.D.4. SMO, South Mesquite Overlay District** that the proposed work conflicts with and shall also explain the Applicant's right to appeal the denial to City Council (as per **Sec. 36-2.D.4.o) Appeals** below). A copy of the Notice of Decision shall be placed in the case file and a copy shall be provided to the Applicant.

iv) Issuance of Certificates of Occupancy or Completion

Staff having prepared the Certificate of Appropriateness (CoA) shall review the final completion of the project for consistency with CoA prior to the issuance of the Certificate of Occupancy or Completion for the project.

j) Design Guidelines

Specific design guidelines, standards, and criteria shall be used by staff and the HPC to determine the appropriateness of construction and rehabilitation projects, and to determine whether the request is consistent or inconsistent with existing development.

i) Applicable development must ultimately utilize architectural styles, methods, and materials that are visually compatible with the original structure, surrounding structures (especially where new construction is proposed), and the overall character of the historic district. This should not be interpreted as a

requirement to mimic existing styles or construction materials, but as a means for these types of projects to result in a visually compatible transition between old and new structures within the general neighborhood and/or on a single parcel of land.

ii) When evaluating proposals for new development, additions, or rehabilitation in the SMO, the structure's contribution to the neighborhood comes into play. Most of the SMO historic structures are located within the Original Townsite. These historic structures deserve the most protection and, therefore, the design standards for these are stricter than for newer buildings. There are also many structures listed as contributing on the historic register outside of the Original Townsite; these, too, follow the same design standards as those in the Original Townsite.

iii) In addition to the standards stated herein, staff and the HPC shall review projects based upon The Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitation, Restoring, and Reconstructing Historic Buildings, and The New Mexico Historic Building Inventory Manual (1980). These resources are available for public review in the Community Development Department or on the City's website.

iv) Ordinary maintenance and repair of any exterior architectural feature in or on a contributing building may be undertaken without a Certificate of Appropriateness provided this work is in keeping with the architecture or character of the building and does not cause a loss of its historic integrity. If such work requires a permit, Community Development staff shall evaluate these permits for consistency with the Design Standards of this Section.

v) Criteria for Requesting and Granting Building Height Exceptions

Pursuant to **Sec. 36-2.D.4.c). Development Standards**, the building heights within the SMO are limited to 14 feet and one story. Through a variance procedure to the HPC, a property owner may request a variance from this maximum building height or number of stories limitation provided that the HPC finds that the proposed building satisfies the following criteria:

a. For new construction:

i. The building is similar in height to another building or buildings within the same block;

ii. The second story is set back from the first story by a minimum of 15 feet;

iii. Second-story windows facing the street shall be small or clerestory;

iv. Second-story windows facing adjacent residential properties shall be frosted to ensure neighbors' privacy; and

v. The design of the building shall satisfy the design standards and guidelines of the SMO.

b. For additions:

i. The addition is limited to 20 percent of the total footprint of the primary building;

ii. The addition must be setback or stepped back from the street-facing facade;

iii. For additions to buildings deemed Contributory to the Historic District, materials and colors of the addition shall distinguish the addition from the original structure;

iv. Second-story windows facing the street shall be small or clerestory;

v. Second-story windows facing adjacent residential properties shall be frosted to ensure neighbors' privacy; and

vi. The design of the building shall satisfy the design standards and guidelines of the SMO.

vii. The maximum building height allowed with a variance procedure shall be 25 feet. The maximum number of building stories allowed with a variance shall be two stories.

k) Design Standards

Additional components that must be given specific attention include the following criteria:

i) Design Standards for All Properties in the SMO:

a. New construction shall reflect a style consistent with those found in The New Mexico Historic Building Inventory Manual (1980) and shall be consistent with the styles of Design Guidelines or Manual established by the HPC for the SMO and with other historic structures found on the same street segment.

b. New construction shall maintain a visual balance and rhythm of the walls, doors and windows along any given street segment.

c. Manufactured homes shall meet design criteria for new construction to the greatest extent possible without altering the structural integrity of the home. This shall include the style and type of materials forming the exterior facade as well as the type and material of skirting that is used. Manufactured homes shall be is compatible in type and materials with adjacent and nearby historic structures.

d. Additions and remodeling projects shall utilize materials that are consistent with the character and architecture of the existing structure. The same materials must be used on all sides of a structure.

e. Changes in materials on a single structure, such as stucco to wood siding or vice-versa, may be made if the different material is also in keeping with the architecture or character of the structure and does not diminish the historic integrity of the structure to any great extent. Changes in materials must also be consistent with other materials used in the neighborhood.

f. Fences/walls shall be of a material that is compatible with the structure or compatible with other fences/walls in the neighborhood.

i. Chain link or square wire fencing is prohibited except if used in a small area within the interior of a lot, such as for a dog run or surrounding a private swimming pool, and cannot be viewed from a public street.

ii. Existing chain link or square wire fencing may be temporarily removed if necessary, but the same fencing must be replaced exactly as it was.

iii. An old chain link or square wire fence may not be replaced with new chain link or square wire fencing; if replaced, the new fence must come into compliance with this Section.

iv. If a chain link or square wire fence is damaged through no fault of the property owner, the fence may be replaced exactly as it was.

v. The HPC has the authority to modify or waive the above wire fence restrictions on a case-by-case basis with a Certificate of Appropriateness.

g. Construction fencing must be removed from the site within three (3) days of issuance of a Certificate of Occupancy or a Certificate of Completion.

h. Dumpsters for commercial or multi-family developments are required to be screened from any streetside facade.

i. Second story elements and single-story structures built to the side or rear property lines shall incorporate window types (e.g. clerestory, frosted) and placement in such a way as to protect the privacy of adjacent neighbors.

j. Outdoor lighting shall meet the requirements of **Sec. 38-9. Outdoor Lighting** and light fixtures shall be consistent with the architectural character of the structure and neighborhood. Fluorescent tube lighting fixtures are prohibited.

ii) Design Standards for Structures Listed as Contributing on the State or National Mesquite Street-Original Townsite Historic District Inventory

a. Additions are not permitted to primary facades, it must be set back from the front facade.

b. Additions and remodeling projects shall have architectural treatments and styles, features, and details as the existing structure, but shall not duplicate those of the existing structure in a manner that will make the addition indistinguishable from the existing structure. Distinguishing characteristics could include, but are not limited to:

   i. Setting back the addition from the original structure a distance to be determined by the proposed addition's relation to the scale and form of the original structure;

   ii. Varying trim, finish texture, facade height, color, etc., to some slight degree;

   iii. Separating the addition from the original structure by a connector;

   iv. Varying the window or brick pattern from the original.

c. If applicable, to the extent architecturally practicable, new additions should be attached to any existing noncontributing portion of the structure instead of attaching them to the contributing portion.

d. The owner shall make every attempt to repair or restore historic windows. Historic windows that cannot be repaired or restored shall be duplicated in size, style, and material of the original to the greatest extent possible. No opening shall be widened or narrowed except as required to comply with building code standards, unless historic documentation supports its prior existence. Vinyl-clad or aluminum windows may be used if they resemble the original windows in size and style. Thermal double pane glass may be used.

e. Original doors shall be retained, and repaired or restored to the greatest extent possible. If existing doors are beyond repair, new ones shall match the original material and should also be similar in design. Flat surfaced and contemporary doors with small decorative windows shall be avoided. No door opening shall be widened or narrowed except as required to comply with Building Code standards, unless historic documentation supports its prior existence.

f. Existing porches or portals shall not be enclosed, unless historic documentation supports its prior existence.

g. No new opening shall be made where one presently does not exist unless historical documentation supports its prior existence. An exception may be made to comply with Building Code standards for egress.

h. No existing opening shall be enclosed unless historical documentation shows that the existing opening is not original to the structure.

i. Existing roof styles and materials shall be maintained or replaced in kind. The addition of parapets, canales, or other roof features should only be considered if they are in keeping with the architectural style of the structure.

j. Specific colors of structure and trim shall not be criteria in evaluating the proposal.

l) Installation of Solar Panels or Other Alternative Energy Equipment

Enhancing the energy efficiency of a historic building is important. To that end, it is often possible to install features such as solar panels and photovoltaic cells, provided they are installed in a sensitive manner. However, for some historic buildings, it may not be possible to incorporate solar panels and meet the Secretary of the Interior's Standards for Rehabilitation. The following standards for installation of these systems shall apply:

i) Installation of panels must be reversible and not damage the historic integrity of the building and district.

ii) Solar panels should be installed on rear slopes or other locations not highly visible from the public right of way whenever possible. Panels should be installed flat and not alter the slope of the roof.

iii) Flat roof structures should have solar panels set back from the roof edge to minimize visibility. Pitch and elevation should be adjusted to reduce visibility from the public right-of-way.

iv) Use solar panels and mounting systems that are compatible in color to established roof materials. Mechanical equipment associated with the solar panel system should be treated to be as unobtrusive as possible.

v) Use of solar systems in windows or on walls, siding, awnings, or shutters should be installed with limited visibility from the public right-of-way.

vi) In circumstances where solar collectors are not placed on rooftops, they should only be positioned in limited or no-visibility locations in secondary areas of the property. Use vegetation or a compatible screen if necessary to further reduce the visual impact of these features on a historic property.

m) Submittal and Review Process

The following submittal and review procedures are established to protect persons and property in the South Mesquite Overlay District. Applications shall be obtained from the Community Development Department, Building Permit Section.

i) Buildings/Structures

Prior to the filing of an application for development and/or signs, a pre-application conference to meet with Community Development Department Staff to review the proposal is required.

ii) Following the pre-application meeting, the Applicant shall submit one copy of all application materials for the development to the Community Development Department for review. Upon submittal, staff shall review the submittal for completeness. If all the required items have been submitted, the Community Development Department shall deem the application complete and shall begin its review process.

iii) The minimum submittal requirements for development proposals shall include the following information that is relevant to the proposal:

a. A Development Application, with appropriate materials required for the SMO, as determined by Community Development staff at the pre-application meeting. The submittal shall include a scaled site plan that includes the following, as applicable:

i. Property boundaries.

ii. Location of all structures.

iii. Age of structures.

iv. Setbacks of all structures, existing and proposed.

v. Parking layout, if applicable.

vi. Ingress/egress access points.

vii. Areas proposed for landscaping.

viii. Surfacing material for impervious surfaces, if applicable.

ix. Stormwater ponding areas.

x. Dumpster location(s).

xi. Location of service and loading area(s).

xii. Freestanding and attached sign locations where applicable.

xiii. North arrow.

xiv. Any other information that conveys how the proposal will meet development requirements.

b. A statement of objectives to be achieved by the development, inclusive of a description of the character and anticipated use of the proposed development.

c. If the structure is listed as contributing on the State or National Mesquite Street—Original Townsite Historic District inventory, a description of the known history of the structure shall be included. Photos are encouraged to support the purpose of the application.

d. Scaled elevations or renderings that are detailed enough so that a realistic picture is given of the proposed project to a close approximation of the finished project. It should be apparent from the submission that the design criteria herein have been met to the greatest extent possible. Color architectural/artistic renderings shall:

   i. Reflect all aspects/views of the exterior of the structure.

   ii. Demonstrate the use of building materials through the drawings or with a legend or an attached list.

   iii. Detail the fenestrations, other building openings, rooflines, ornamentation, woodwork, and other features of the structure.

e. If required, the Applicants shall present their proposal to the HPC at a public meeting. At that time, a formal decision by the HPC regarding the proposed project will be made and a Certificate of Appropriateness or Letter of Denial will be issued by staff within five days. This record of the HPC shall be entered into the Case File for reference by building inspectors, plan examiners, and other relevant City staff. Public meeting procedures and notice requirements will follow that of the Planning and Zoning Commission found in **Sec. 34-3.G. Notice for a Public Meeting**.

f. Those projects not required to be reviewed by the HPC shall be reviewed by Community Development staff using the same criteria and procedures found herein.

g. A scaled landscaping plan shall include:

   i. Location, size, and common name of all landscaping

   ii. A complete irrigation plan shall be included, clearly identifying how the landscape will be sustained.

h. Community Development staff shall ensure that the Applicant satisfies any conditions of approval stated in the Certificate of Appropriateness (CoA); if the Applicant proposes any changes to the project involving architectural or structural elements, location, or materials that alters the CoA approval conditions, the Applicant shall submit revised plans for review by the HPC. If the Community Development staff, upon inspection prior to issuance of a Certificate of Occupancy or Completion, notices that the Applicant changed a design element that is inconsistent with the CoA, the Applicant shall submit a revised plan showing the changed element and the HPC shall review the change to see if it meets the SMO design guidelines, standards, and criteria. The HPC shall have the authority to recommend to the City's Building Official that the substituted element be removed and replaced with one that is approved by the HPC.

n) Demolition

To preserve the character of the State and National Mesquite Street-Original Townsite Historic Districts and surroundings, this ordinance creates a 60-day demolition permit application review process that will allow time for interested parties to explore alternatives to the demolition of historic structures.

i) Property owners intending to demolish any structure located within the SMO must adhere to the following 60-calendar day process. The Applicant may withdraw the permit application at any time with a written notice to the Director of the Community Development Department.

ii) Demolition permit applications shall be submitted to the Community Development Department prior to any demolition activity taking place. During the 60-day review, Community Development Department staff will review the application for compliance with the Las Cruces Building Code (Chapter 30 of the LCMC).

iii) A proposal for redevelopment of the property, with elevations, must accompany the permit application; this proposal shall describe a potential or proposed development proposal for the property, and whether it is proposed for the near or distant future.

iv) Prior to the demolition of a structure designated as Contributing within the State or National Historic District, the Applicant shall be responsible for fully documenting the structure, both interior and exterior, to provide a permanent record, in accordance with documentation procedures as follows. The demolition permit will not be approved without submittal and approval of this documentation by Community Development staff:

a. Completion of the New Mexico Historic Cultural Properties Inventory (HCPI)-Form, available in the Community Development office and online.

b. Photographing the property

c. Take several photos (front, rear, sides, close-up views, details, setting, etc.) of the historic structure proposed for demolition (primary structure and/or each historic accessory structure, such as a garage, sheds, etc.) Buildings that are not listed on the historic register need not be included. For more information on documentation, please refer to the National Register Photo Policy Fact Sheet available in the Community Development Department and online.

d. If known, a short history of the property should be included, in order to document how that property fits within the historic district or community.

v) Posting

At the beginning of the 60-day review process, the Community Development Department will prepare a public notice sign that is to be posted by the Applicant in a conspicuous place on the property. The Applicant is responsible for ensuring that it is in place for the entire 60-day period. The Department will publish a legal notice describing the proposed demolition and contact information for the Applicant. A fee shall be charged to the Applicant for the cost of the public notice.

vi) At the beginning of the 60-day review process, the Community Development Department will inform the HPC, neighborhood associations, the New Mexico State Historic Preservation Office (SHPO), and other pertinent organizations or interested parties that a demolition permit has been applied for.

vii) A demolition permit shall be issued upon the completion of the following items:

a. The completion of the 60-day period;

b. Documentation of the structure as described above; and

c. The application meets all City Code requirements and has been approved by the Community Development Department Staff. (Code compliance comments regarding the proposed demolition may be resolved within the 60-day time period).

viii) Compliance with the procedure set out in this Section may be waived by the City Manager if it is determined that immediate demolition of a historic structure is necessary to remove a hazard to the health, safety, and welfare of the public. In such a case, the Community Development Department shall immediately notify the HPC, neighborhood associations, SHPO, and other pertinent organizations and interested parties that demolition of the structure is imminent.

o) Appeals

In the South Mesquite Overlay District, any applications for development must be approved by the City in order for a use permit, building permit, or sign permit to be issued. If required by this Section, review and approval by the HPC must precede issuance of a permit.

i) A decision made by staff may be appealed by any aggrieved person to the HPC. Such appeal must be made in writing within 15 calendar days of the staff decision. The appeal will be presented to the HPC at their next regularly scheduled meeting.

ii) Appeals for a decision made by the HPC, Planning & Zoning Commission, or City Council shall be in accordance with **Sec. 34-3.F.1.c) Timing for Filing Appeal**.

iii) A request that is denied by the HPC and/or City Council shall not be resubmitted or reconsidered for a period of one year. However, after meeting with Community Development Department staff, a different request on the same property may be submitted no less than six months after such denial decision.

5. UD, University District Overlay District

   a) Intent and purpose. The University District Overlay intends to allow greater flexibility to developers and land owners while encouraging the development of a vibrant, mixed-use University District. The purpose of this document is to implement transportation, land use, and urban design policies as established in the University District plan. Specifically, the purpose of this overlay is to stipulate provisions which will:

      i) Promote a pedestrian-oriented urban form in the University District. The focus on form promotes buildings that conform to tested urban design principles and that adapt to changing conditions over time.

      ii) Establish an area with a rich mix of uses: Commercial, cultural resources, residential, and transportation choices.

      iii) Maximize connectivity and access in a multimodal circulation network in which residents, workers, and visitors may conveniently walk, drive, bike, or ride public transportation to destinations within and outside of the district.

      iv) Support existing University District businesses.

      v) Promote sustainable development that minimizes negative impacts on natural resources. A walkable, mixed-use, higher-density University District supports sustainable development by providing an alternative to low-density development in peripheral areas. University District's buildings, transportation systems, and public spaces should be designed to minimize negative impacts on air and water quality and promote innovation in environmental design.

      vi) Create a seamless destination where the City of Las Cruces and New Mexico State University meet.

   b) Applicability.

      i) Introduction. This overlay applies to all properties that have been rezoned within the University District overlay zone. It shall be used to regulate the design of new streets, new buildings, and new public spaces.

      ii) Terms. The provisions of this overlay are activated by "shall" when required; "should" when recommended; and "may" when optional. Technical terms used throughout this Code may be defined in **Sec. 34-5. Definitions**. Those terms not defined in **Sec. 34-5. Definitions** shall be accorded their commonly accepted meanings. In the event of conflicts between these definitions and the provisions herein stated, the Community Development Director shall have the authority pursuant to **Sec. 34-1.I. Interpretations** to determine which will be imposed.

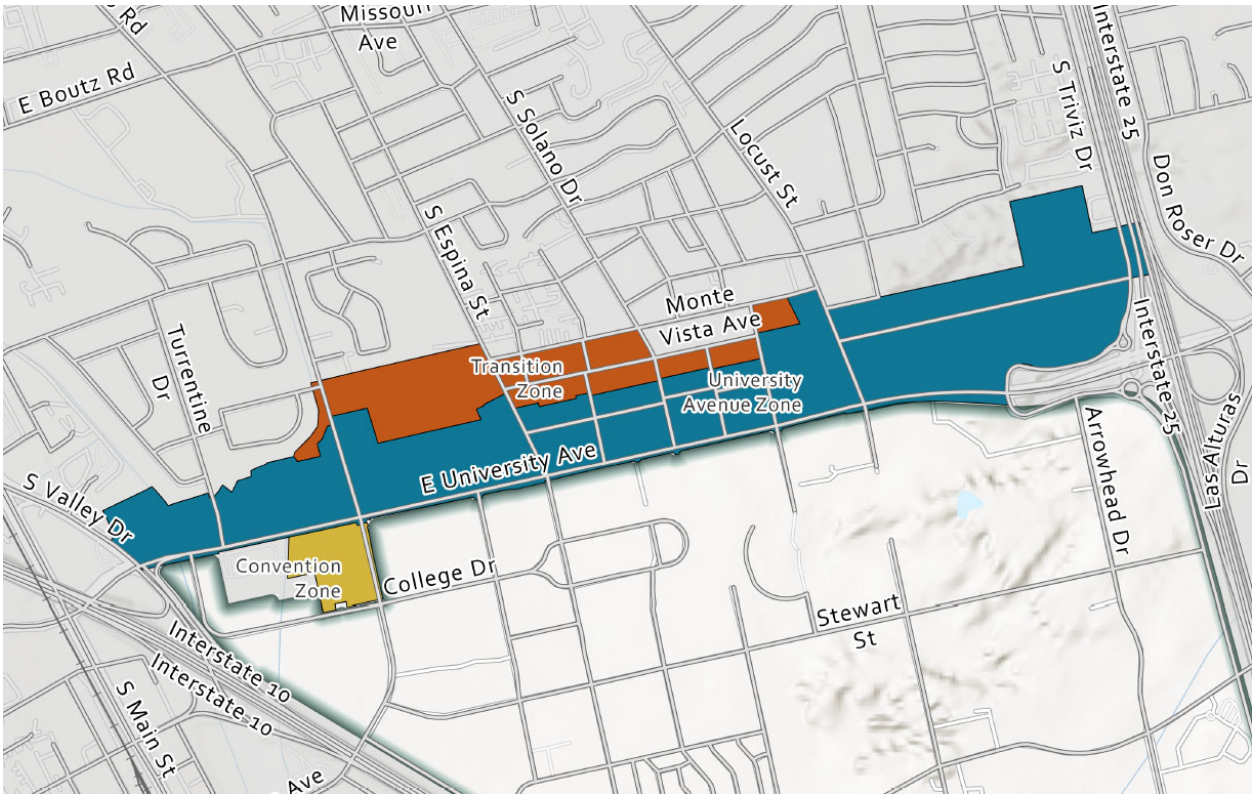
   c) Diagrams and Illustrations. Diagrams and illustrations are an integral part of this overlay and are used to help explain standards and guidelines. The diagrams and illustrations are for illustrative purposes only. When in conflict, written text shall take precedence over diagrams and illustrations.

   d) Delineation of Overlay District.

      i) The University District Overlay applies to all properties within the boundaries noted on the associated map. Please refer to **Figure 36-2-31. University District Overlay**.

      ii) Within the boundary of this overlay, three distinct zones shall be established: University Avenue Zone (UD-UAZ), Transition Zone (UD-TZ), and Convention Zone (UD-CZ). The locations of these zones are on the associated map.

**Figure 36-2-31. University District Overlay**




e) The vision for the zones.

i) University Avenue Zone (UD-UAZ): The UD-UAZ is assigned to land appropriate for an urban neighborhood center with a mix of building types and uses. These lands are generally occupied by attached residential houses, apartment buildings, and commercial or mixed-use buildings. Civic and religious use buildings may also be present. Lands may also be used for playgrounds, squares, and plazas. Two- to five-story buildings are encouraged. Block sizes are limited to create a walkable and well-connected network of streets. Streets are designed to encourage pedestrian activity by generally including on-street parking, curbs and gutters, parkways with street trees, and wide sidewalks. University Avenue shall be the primary frontage for properties on University Avenue.

ii) Transition Zone (UD-TZ): The UD-TZ is assigned to land appropriate for neighborhoods with a mix of building types and uses. These lands are generally occupied by detached and attached residential houses, small apartment buildings, and small commercial or mixed-use buildings. Civic and religious use buildings may also be present. Lands may also be used for playgrounds, passive and active neighborhood parks, and squares. The buildings may be one to three stories high with shallow front setbacks and small or no side and rear yards. Block sizes are limited to create a walkable and well-connected network of streets. Streets are designed to encourage pedestrian activity by generally including on-street parking, curbs and gutters, parkways with street trees, and wide sidewalks.

iii) Convention Zone (UD-CZ): The UD-CZ is assigned to land suitable for development that, by its intrinsic size, function, or configuration, may not conform to the descriptions and standards for one of the other zones. The development types include convention and exhibition hall, hotel, and ancillary uses such as restaurants and specialty retail.

f) Definitions. Definitions are in addition to those noted in **Sec. 34-5. Definitions** unless otherwise noted here:

*Brew-pub:* A brew-pub is a microbrewery that serves food or is combined with a pub. A microbrewery, or craft brewery, is a brewery that produces a limited amount of beer. The maximum amount of beer a brewery may produce and still be classed as a microbrewery in New Mexico is less than or equal to 200,000 barrels a year, according to the New Mexico Alcohol and Gaming Division.

*Callecita* or *lane:* Combines the space for a car with the space for the pedestrian. See also the Las Cruces Downtown Revitalization Final Schematic Design and Concept Report, adopted August 2005.

*Dwelling, above ground floor:* Dwelling unit(s) located above ground floor office or commercial uses.

*Front facade:* A term that is equivalent to "primary front" or “primary frontage” throughout this Development Code. It is the elevation with the main entrance to a building that faces a public street. In the UAZ, the primary or front facade faces University Avenue.

*Green roof:* As defined by the U.S. Environmental Protection Agency, green roofs, also known as rooftop gardens, are planted over existing roof structures, and consist of a waterproof, root-safe membrane that is covered by a drainage system, lightweight growing medium, and plants. Green roofs reduce rooftop and building temperatures, filter pollution, lessen pressure on sewer systems, and reduce the heat island effect.

*Guest dwelling:* A dwelling to be used for temporary occupancy only and is not to be rented or leased. A guest dwelling shall be no more than 50 percent of the main dwelling's heated/cooled square footage and shall not contain a kitchen. (See also **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #19 Accessory Dwelling.)

*Live/work unit:* A building that may be used flexibly for living and working in the same building. A variety of uses in the buildings is encouraged. Dwelling units may be located above the ground floor, attached to the rear of a shop front, or detached and located in the rear or side yard. Work is of a commercial nature subject to business registration requirements and not a home occupation.

*Mixed-use:* For the purposes of this overlay, the term refers to the practice of allowing more than one type of land use category (For example, residential, office or commercial, etc.) in a single building or set of buildings located on a single parcel.

*Outdoor plaza or space:* A generally open area that may be used for active or passive purposes by one or more businesses and the public visiting the location. An example may include an outdoor seating area for a cafe or restaurant serving as an extension of one or more business, a landscaped plaza serving as open space for patrons and visitors alike, etc.

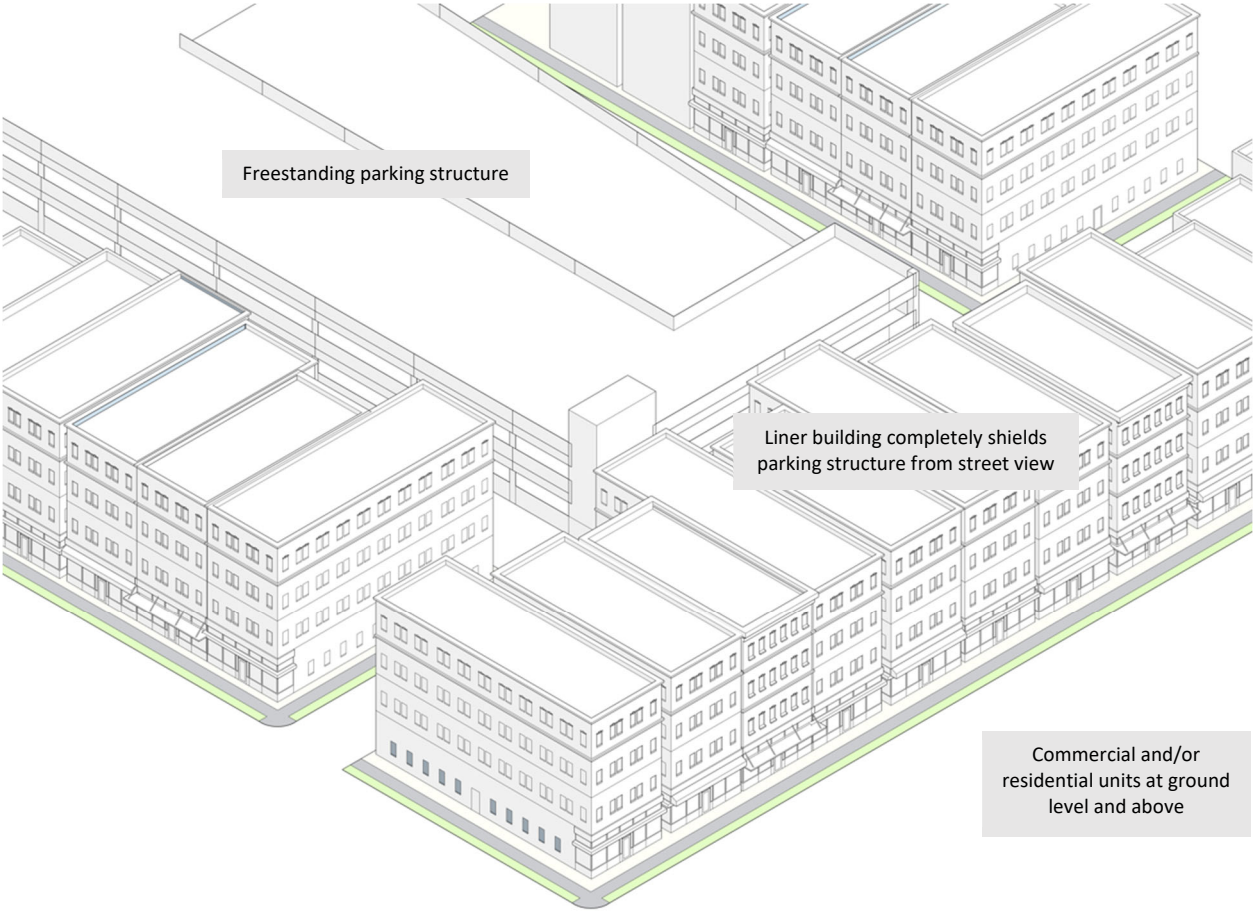
*Parking garage with and without liner building:* A combination of structures for parking and a mix of uses (commercial, residential, office) where parking is designed to be concealed from view and levels of parking are at-grade, above grade, or partially below-grade (but not fully underground). A liner building is a specialized building that may be built as part of the parking structure or separate; it is parallel to the street and designed to conceal a parking structure from the street with active ground floor uses such as retail shops or residential stoops. A parking garage may be designed without a liner building provided that it is designed in such a way so as to incorporate active ground floor uses, architectural features, and articulated elements to mitigate blank walls and screen parking.

*Pedestrian scale lighting:* Lighting that shall be a maximum of 16 feet in height and shall contribute to the overall character of the surrounding community, site architecture, or other site features.

*Performing arts center:* A multi-use performance space that is intended for use by various types of performing arts, including dance, music, and theatre.

*Secondary residence:* A dwelling unit that is subordinate in size and location to the main dwelling on a single property, and may be rented or leased as an independent dwelling unit. A secondary residence is different from a guest dwelling or accessory structure in that it is a distinct dwelling unit containing a kitchen. Examples include an apartment or cottage.

*Single use:* For the purposes of this overlay, the term refers to either one or multiple component parts of a single land use category, such as residential, office, or commercial. Multiple office-related businesses on a single parcel or tract shall be considered a single use. For the purpose of this overlay, there shall be a limit to a concentration of single land uses in favor of a mix of uses.




g) Permitted Uses

i) General Provisions

a. Mixed-use development is permitted throughout the University District. Mixed-use is defined as the practice of allowing more than one type of use, including residential, in a building or set of buildings.

b. The City shall seek to streamline review, subdivision processing, and waiver of permit and application fees as appropriate within the University District Overlay. Use of these provisions shall be allowed regardless of a parcel's status (vacant, underutilized, etc.).

c. There shall be no development or alteration of the lands, uses, or structures within this overlay except as provided for by this section of the Development Code and other codes where applicable. For example, under no circumstances shall development violate the City's traffic standards for maintaining a clear sight triangle (**Sec. 38-2.H. Clear Sight Triangle**).

d. Commercial (retail and service) and office drive-thru windows/drive-up windows are discouraged in the University District. Drive-through uses do not support a pedestrian-oriented environment and are inconsistent with the goals for the University District. Although drive-through facilities are discouraged, the following standards shall apply to facilities approval by the UD-CDRC.

i. Windows and stacking lanes. Drive-through windows and stacking lanes shall not be located within the front yard setback or along facades that face a street. Drive-through windows shall be located at the rear of buildings.

ii. Circulation. The design and location of the facility shall not impede vehicular traffic flow and shall not impede pedestrian movement and safety. Shared driveways and/or driveways located off of non-arterial streets should be used, where possible.

iii. Screening. Architectural elements, landscaping, and/or other screening elements shall be used to minimize the visual impacts of the drive-through facility.

e. Developments with frontage on University Avenue greater than 400 linear feet shall be mixed-use.

f. Land uses that do not appear on this list shall be reviewed by the Community Development Director and a determination will be made as to whether said use is consistent and/or congruous with others listed or whether or not it requires a special use permit by its intended omission.

ii) University Avenue Zone (UD-UAZ), Transition Zone (UD-TZ) and Convention Zone (UD-CZ). Please refer to **Figure 36-2-32. UD Overlay Permitted Uses** for uses that are allowed (A), conditional (C) and not permitted (NP). Please refer to **Sec. 36-3.A.1. Permitted Use Chart** for the number of auto parking stalls required per land use.

**Figure 36-2-32. UD Overlay Permitted Uses**

A = Approved by Right, C = Conditions apply to more than one zone unless otherwise noted, NP = Not Permitted

| | UD-UAZ | UD-TZ | UD-CZ | CONDITIONS | BICYCLE PARKING SPACES (BPS) |
|---|---|---|---|---|---|
| AGRICULTURE & EQUESTRIAN USES | | | | | |
| Veterinary Facility | A | C | NP | Close 10 p.m. | 1 BPS/20 employees on maximum shift |
| INDUSTRIAL LAND USES | | | | | |
| Light Manufacturing (Cabinetry and Woodworking; Cottage Industry Retail or Service, Jewelry, Silverware & Plated Ware; Musical Instrument Fabrication/Manufacture; Printing and Publishing; Signs & Advertising) Fabrication/Manufacture | C | C | NP | NEW: Light manufacturing uses permitted shall be an accessory use to a retail business in the UD. A maximum of 49 percent of the square footage of the buildings may be used for light manufacturing uses. The use shall meet all requirements for the district including the intent and purpose.<br>CONDITIONS:<br>1. No activity producing noise, glare or heat observable or measurable outside the building is allowed.<br>2. No emission of objectionable dust, fumes, odors, vapors, gases, smoke or other forms of air pollution shall be permitted.<br>3. No vibration shall be permitted which is discernible beyond the property lines to the human sense of feeling for three minutes or more duration in any one hour of a day.<br>4. No outside storage. | 1 BPS/20 employees on maximum shift |
| Communication/Vertical Structures | C | C | C | See **Sec. 38-11. Wireless Communication Facilities** | |
| Face Mount (attached to primary use) | C | C | C | See **Sec. 38-11. Wireless Communication Facilities** | N/A |
| Laboratories (Medical/Dental/R & D) | NP | NP | NP | | |

A = Approved by Right, C = Conditions apply to more than one zone unless otherwise noted, NP = Not Permitted

| | UD-UAZ | UD-TZ | UD-CZ | CONDITIONS | BICYCLE PARKING SPACES (BPS) |
|---|---|---|---|---|---|
| Manufacturing, General | NP | NP | NP | | |
| Ministorage Units | NP | NP | NP | | |
| Parking Lots (Private or Public) | NP | NP | NP | | |
| Parking Garage with Liner Building, Commercial or Public | A | C | A | Not to exceed maximum height (45 feet). | |
| Storage/Display of Merchandise for Sale (exc. Manufactured buildings, mobile homes & operable cars, trucks, motorcycles & RVs) | NP | NP | NP | | |
| Storage outside of buildings of materials, equipment and supplies not for sale | NP | NP | NP | | |
| Storage, warehousing accessory to Office, Retail, Service, or Industry | NP | NP | NP | | |
| Recycling Centers | NP | NP | NP | | |
| Water Purification, Commercial | NP | NP | NP | | |
| Wholesale Trade, any product | NP | NP | NP | | |
| INSTITUTIONAL RELATED USES | | | | | |
| Child Care or Preschool (13 or more children) | C | C | NP | See #36 Child Care Center in **Sec. 36-3.B** | 1 BPS/7000 GFA |
| Community Buildings - Uses (includes Community Recreation Facility, etc.) | A | C | C | | 1 BPS/5000 GFA |
| Convention Center/Exhibition Hall | NP | NP | A | | 1 BPS/75 Maximum occupancy |
| Family Child Care Home (5-6 children) | C | C | NP | See #37 Child Care Home (≤6) in **Sec. 36-3.B** | 1 BPS/7000 GFA |
| Group Child Care Home (7-12 children) | C | C | NP | See #38 Group Child Care Home (7-12) in **Sec. 36-3.B** | 1 BPS/7000 GFA |
| Institutional Office (i.e., Convention & Visitors Bureau, etc.) | A | A | C | Accessory to Convention Center/Exhibition Hall | 1 BPS/8000 GFA |
| Religious Institution w/Columbarium | C | C | NP | See #43 Cemetery or Columbarium in **Sec. 36-3.B** | 1 BPS/40 seats in primary assembly |
| Library/Museum | A | C | A | Building and site design requires pedestrian orientation and compliance with Building and Site Standards in UD Overlay [b) Placement of Primary Building; d) Frontage Elements, Primary Building] | 1 BPS/1000 GFA |
| Performing Arts Center | A | C | A | Close 10 p.m. | 1 BPS/50 Maximum occupancy |
| School (K-8) Public, Private, Parochial | C | C | NP | See #39 School (K-8) in **Sec. 36-3.B** | 6 BPS/classroom |
| School (9-12) Public, Private, Parochial | C | C | NP | See #40 School (9-12) in **Sec. 36-3.B** | 4 BPS/classroom |
| School, College or University | C | C | C | See #41 School (College or University) in **Sec. 36-3.B** | 1 BPS/20 Employees + 1 BPS/4 Students |
| School, Commercial, Trade or Technical | C | C | C | See #42 School (Commercial, Trade, or Technical) in **Sec. 36-3.B** | 1 BPS/20 Employees + 1 BPS/4 Students |
| OFFICE & COMMERCIAL LAND USES | | | | | |
| Adult Amusement Establishment | NP | NP | NP | | |

A = Approved by Right, C = Conditions apply to more than one zone unless otherwise noted, NP = Not Permitted

| | UD-UAZ | UD-TZ | UD-CZ | CONDITIONS | BICYCLE PARKING SPACES (BPS) |
|---|---|---|---|---|---|
| Adult Bookstore/Video Store | NP | NP | NP | | |
| Art or Photography Studio | A | A | NP | | 1 BPS/8000 GFA |
| Auto/Truck/Trailer Rental | NP | NP | C | Auto rental only when accessory use to Hotel, Convention Center, Exhibition Hall. Not to exceed 10 parked cars. | 1 BPS/6000 GFA |
| Cab Stand | NP | NP | NP | | |
| Eating & Drinking Establishments (Bar, Pub, Tavern (Dancing & No Dancing); Cafe, Cafeteria, Coffee Shop, Convenience Store; Deli with eating facilities; Restaurant, etc.; Brew-Pub) | A | A | C | New use category that contains both uses in current zoning code and a new one for Brew-Pub.) CONDITIONS: Ancillary to primary Hotel use, Convention Center, & Exhibition Hall. | 1 BPS/1000 GFA |
| Equipment (Large) Repair & Service (Non-Vehicular) | NP | NP | NP | | |
| Equipment Rental | C | C | NP | Outside storage prohibited. | 1 BPS/20 employees |
| Gas Station with Convenience Store | C | NP | NP | Prohibit mid-block locations and at intersections on University Avenue between Turrentine Drive and Locust Street. Repair facilities prohibited. | 1 BPS/2000 GFA |
| General Commercial & Retail (Bicycle Sales, Service & Repair; Building Material (no outdoor sales or storage); Carpet/Window Treatments; Clothing Store; Department Store; Furniture Store; Garden Supply; Grocery Store; Hardware Store w/out outdoor sales or storage; Specialty Store such as books, music, toys, etc.; Pawn Shop; Plant Nursery; Small Item Repair Shop; Telephone & Communication Center; Upholstery Shop, no outdoor storage; Variety Store; Video Tape/DVD/Rental/Sales; and other typical small-scale Commercial establishments) | A | A | C | Ancillary to primary Hotel or Convention Center use. | 1 BPS/2000 GFA |
| General Office & Service (Accounting, Auditing & Bookkeeping; Architectural, Engineering, Planning & Surveying; Bank, Bonding & Financial Institution (No Drive-Thru); Barber/Beauty/Hair Salon & Related Personal Care; Cleaning & Maid Services; Consulting Services; Counseling Services; Credit Reporting & Collection; Desktop Publishing & Graphic Design; Funeral Home; Health Care Clinic (non-hospital); Insurance; Laboratory; Legal Services; Lessons (Art, Dance, Music, etc.); Mailing & Records Management Services; Medical/Dental Office; Motion Picture Production; Pharmacy; Radio/TV Studio/Station; Real Estate; Research Organization, Noncommercial; Tax Preparation; Telemarketing/Mail Order/Call Center; and other similar Business Offices.) | A | C | C | TZ: Close 10 p.m. CZ: Ancillary to primary Hotel or Convention Center use. | 1 BPS/8000 GFA. Medical Office add 1 BPS/2 Doctors |
| Health Care Clinic (Non-Hospital) | A | C | NP | Close 10 p.m., location on Collector or higher. | 1 BPS/10000 GFA |
| Hospital | NP | NP | NP | | |

A = Approved by Right, C = Conditions apply to more than one zone unless otherwise noted, NP = Not Permitted

| | UD-UAZ | UD-TZ | UD-CZ | CONDITIONS | BICYCLE PARKING SPACES (BPS) |
|---|---|---|---|---|---|
| Hotel/Motel | A | NP | A | | 1 BPS/20 employees on maximum shift. For additional onsite uses (offices, meeting rooms, ...) see individual req'ts. |
| Kennel/Cattery, Commercial | NP | NP | NP | | |
| Newspaper Distribution | NP | NP | NP | | |
| Petroleum/Propane Sales | C | C | NP | Ancillary to retail use. | N/A |
| Private Club or Lodge | A | C | NP | Close 10 p.m. | 1 BPS/2000 GFA |
| Temporary (Non-seasonal) | C | C | C | See #35 Seasonal/Temporary Sales or Use in **Sec. 36-3.B** | 1 BPS/2000 GFA |
| Theater, Movie (Commercial) | A | C | NP | Building and site design requires pedestrian orientation and compliance with Building and Site Standards in UD Overlay [b) Placement of Primary Building; d) Frontage Elements of the Primary Building]. | 1 BPS/60 seats |
| | | | | | |
| Mobile Home, Auto, Motorcycle & Manufactured Home Sales, Service & Repair (Auto Body Shop; Auto/Truck Parts Store; Auto/Truck Repair & Service; Auto/Truck Wash/Wax/Detailing; Self-Service/Automated or Full Service; Auto/Truck/Motorcycle Dealers; Truck/Trailer Rental (separated Auto Rental conditioned in CZ as an accessory to hotel use); Automobile, Truck and Camper Sales, Service and Repair); Tire Sales/Repair | NP | NP | NP | | |
| RECREATIONAL USES | | | | | |
| Arcade/Game Room | A | C | NP | Hours of operation: Close 10 p.m. | 1 BPS/1000 sqft GFA |
| Billiard/Pool hall | A | C | C | TZ: Hours of operation: Close 10 p.m.; CZ: Ancillary to primary hotel use and subject to NMSU lease agreement. | 1 BPS/4000 sqft GFA |
| Golf Course, Miniature | A | C | NP | Hours of operation: Close 10 p.m. | 1 BPS/6 tees + 1/1500 sqft GFA |
| Health/Exercise Club/Gymnasium/Sports Instruction | A | A | C | Ancillary to primary hotel use. | 1 BPS/1500 sqft GFA |
| Park | A | A | NP | | per Director |
| Recreational Court, Tennis, etc., Public/Private | A | A | NP* | | 1 BPS/5 courts |
| Swimming Pool, Commercial or Public/Private | C | C | C | UAZ + TZ: if the pool is part of a MU development & meets the conditions of the code for placement, utilities, walls & fences, stormwater retention. CZ: When ancillary to primary hotel use. | 1 BPS/1250 sqft of pool surface |
| Botanical Park | C | C | NP | Building and site design requires pedestrian orientation and compliance | 2 BPS/acre |

A = Approved by Right, C = Conditions apply to more than one zone unless otherwise noted, NP = Not Permitted

| | UD-UAZ | UD-TZ | UD-CZ | CONDITIONS | BICYCLE PARKING SPACES (BPS) |
|---|---|---|---|---|---|
| | | | | with Building and Site Standards in UD Overlay [b) Placement of Primary Building and d) Frontage Elements of Primary Building] | |
| Apartments (including Condominiums) | C | C | NP | Achieve minimum density: 10 DU/ac in TZ and 15 DU/ac in UAZ | 1 BPS/4 DU |
| Assisted Living or Retirement Facility | C | C | NP | Building and site design requires pedestrian orientation and compliance with Building and Site Standards in UD Overlay (B: Placement of Primary Building; F: Frontage Elements (Primary Building) | 1 BPS/20 Employees on maximum shift |
| Bed and Breakfast | C | C | NP | UAZ: Maximum 15 rooms; TZ: maximum 8 rooms. Consistent with design guidelines in this overlay. | 1 BPS/4 rooms |
| Boarding House | A | A | A | | 1 BPS/4 rooms |
| Detached Site Built Single Family DU | C | C | NP | Achieve minimum density: 15 DU/ac in UAZ, 10 DU/ac in TZ | N/A |
| Duplex (including Condominiums) | C | C | NP | Achieve minimum density: 15 DU/ac in UAZ, 10 DU/ac in TZ | 1 BPS/Unit |
| Dwelling, Live-Work | C | C | NP | Dwelling unit is attached to the rear of a shop front or detached and located in the rear or side yard or located above the ground floor and that work is of a commercial nature subject to business registration requirements and not a home occupation. | 2 BPS/Unit |
| Dwelling, Located Above Ground Floor | C | C | NP | Achieve minimum density: 15 DU/ac UAZ and 10 DU/ac TZ. | 1 BPS/Unit |
| Fraternity/Sorority House | A | A | NP | | 1 BPS/2 Bdrms |
| Guest Dwelling | C | C | NP | See #19 Accessory Dwelling in **Sec. 36-3.B** | 1 BPS/Unit |
| Halfway House | A | A | NP | | 1 BPS/4 Bdrms |
| Home for Disabled | A | C | NP | Ten or fewer persons served allowed in TZ. More than 10 persons served, allowed in UAZ only. | 1 BPS/20 Employees on maximum shift |
| Manufactured Dwelling Unit | C | C | NP | Achieve minimum density: 15 DU/ac in UAZ, 10 DU/ac in TZ | N/A |
| Nursing Home | C | C | NP | Building and site design requires pedestrian orientation and compliance with Building and Site Standards in UD Overlay [b) Placement of Primary Building and d) Frontage Elements of Primary Building]. | 1 BPS/80 Beds |
| Patio Home | C | C | NP | See **Sec. 36-4.B.4 Dimensional Standards for Patio Homes and Townhouses**, Achieve minimum density: 15 DU/ac in UAZ, 10 DO/ac in TZ | 1 BPS/Unit |
| Quadplex (including Condominiums) | C | C | NP | Achieve minimum density: 15 DU/ac in UAZ, 10 DU/ac in TZ | 1 BPS/4 DU |
| Secondary Residences | C | C | NP | Achieve minimum density: 15 DU/ac in UAZ, 10 DU/ac in TZ. | 1 BPS/Unit |
| Townhouse (Attached Single Family DU) | C | C | NP | Achieve minimum density: 15 DU/ac in UAZ, 10 DU/ac in TZ | 1 BPS/Unit |

A = Approved by Right, C = Conditions apply to more than one zone unless otherwise noted, NP = Not Permitted

| | UD-UAZ | UD-TZ | UD-CZ | CONDITIONS | BICYCLE PARKING SPACES (BPS) |
|---|---|---|---|---|---|
| Triplex (including Condos) | C | C | NP | Achieve minimum density: 15 DU/ac in UAZ, 10 DU/ac in TZ | 1 BPS/Unit |
| Youth Hostel | A | A | NP | | 1 BPS/10 Beds |
| RESIDENTIAL RELATED USES | | | | | |
| Accessory Dwelling Unit | A | A | NP | See #19 Accessory Dwelling in **Sec. 36-3.B** | N/A |
| Accessory Uses & Structures | C | C | NP | **Sec. 36-4.B.2 Accessory Structures** | N/A |
| Greenhouse (Non-commercial), Garden Shed, Tool Shed | C | C | NP | See **Sec. 36-4.B.2 Accessory Structures** | N/A |
| Home Occupation | C | C | NP | See #23 in Home Occupation in **Sec. 36-3.B** | N/A |
| Kennel/Cattery (Private Residential) | C | C | NP | In accordance with Chapter 7 of the LCMC Code of Ordinances | N/A |
| Storage of recreational vehicles and motor vehicle appurtenances | C | C | NP | See #67 Recreational Vehicle Park in **Sec. 36-3.B** and **Sec. 38-2.N.6.g) Parking and Storage of Large Motor Vehicles** | N/A |

h) Property alteration, remodel, or renovation.

i) Purpose. Property alterations, remodels, or renovation standards are established for this district to maintain consistent quality standards for all development and may be for the purpose of adaptive re-use of the structure. For the purposes of this section, exterior remodel, renovation, or alteration shall be defined as: Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, as well as any change in rooflines, or any enlargement to or diminution of a building or structure, whether horizontally or vertically. Normal maintenance activities as verified by the Building Official are exempt from this provision.

ii) Minor modifications. Changes to a property may be made without requiring compliance with the University District Overlay Urban Design Standards (architecture, landscaping, signage, and utilities). The expansion and/or modification must comply with the urban design standards of the University District Overlay unless through the determination of the Community Development Director, said compliance would substantially create an undue burden to the property owner or create a condition whereby the expansion and compliance measure, partially applied, would be substantially out of character with the existing development. In no case shall a minor modification/expansion equal or exceed a cumulative total of 15 percent of the gross floor area, nor shall an expansion or modification equal or exceed a cumulative total of $25,000.00 in valuation. A proposal equal to or exceeding these values or one that impacts parking and landscaping shall not be considered as a minor addition and/or modification. It shall, therefore, be subject to normal review and consideration afforded development in the overlay and may be subject to nonconforming provisions that follow. The applicant must provide estimates for the cost of labor as a means of ensuring compliance with the valuation criteria.

a. Once permission to proceed has been granted by the Community Development Director, the applicant may apply for the permit. Work shall not commence until permit approval is granted.

b. Should an applicant or aggrieved party not agree with the interpretation by the Community Development Director, the interpretation may be appealed to the University District Citizens Design Review Committee for their recommendation to the Planning and Zoning Commission. All other nonconforming use requirements are subject to **Sec. 36-5.G. Nonconformities** and the City's design standards.

i) Nonconforming uses. Nonconforming uses within the University District Overlay shall be subject to the following provisions.

i) Permitted uses—Nonconforming.

a. When nonconforming site/urban design features regarding access from the right-of-way or lighting are involved, these features shall be brought into compliance with current standards when:

i. The property remains vacant for a period of one continuous year or greater; or

ii. Any one-time or cumulative increase of 15 percent or greater to the gross square footage of building area occurs; or

iii. Any interior/exterior remodel, renovation, or alteration occurs to the building in the amount of $25,000.00 or greater; or

iv. A change in use occurs on the property that results in the alteration of the use intensity (for example, low volume retail to high volume retail), use orientation (for example, service to retail), or density (for example, eight dwelling units to 15 dwelling units) or change in occupancy type from the building code perspective.

b. When nonconforming site/urban design features regarding signage, landscaping, walls, or parking are involved, these features shall be brought into compliance with current standards when:

i. The property remains vacant for a period of one continuous year or greater; or

ii. Any one-time or cumulative increase of 50 percent or greater to the gross square footage of building area occurs; or

iii. Any interior/exterior remodel, renovation, or alteration occurs to the building in the amount of $75,000.00 or greater; or

iv. A change in use occurs on the property that results in the alteration of the use intensity (for example, low-volume retail to high-volume retail), use orientation (for example, service to retail), or density (for example, eight dwelling units to 15 dwelling units) or change in occupancy type from the building code perspective.

c. When nonconforming site/urban design features regarding architecture/building elements associated with Glazing requirements are involved, these features shall be brought into compliance with current standards when:

i. The property remains vacant for a period of one continuous year or greater; or

ii. Any one-time or cumulative increase greater than 75 percent or greater to the gross square footage of building area occurs; or

iii. Any interior/exterior remodel, renovation, or alteration occurs to the building in the amount of $200,000.00 or greater; or

iv. A change in use occurs on the property that results in the alteration of the use intensity (for example, low-volume retail to high-volume retail), use orientation (for example, service to retail), or density (for example, eight dwelling units to 15 dwelling units) or change in occupancy type from the building code perspective.

ii) Prohibited uses—Nonconforming.

a. Uses that existed within the overlay prior to plan/ordinance adoption (2010) that are deemed a prohibited use may be allowed to continue to exist and expand or enlarge (either one-time or cumulative increase) provided that:

i. The property has not remained vacant for a period of one continuous year or greater; or

ii. A change in use has not occurred on the property that results in the alteration of the use intensity (for example, low-volume retail to high-volume retail), or use orientation (for example, service to retail).

b. If the above two criteria are confirmed not to have existed, the use may:

i. Increase or expand in area (lot or building) not more than 50 percent in gross square footage of lot or building area; and

ii. Any noncompliant site/urban design standards existing shall be brought into compliance with overlay standards to the extent possible. Determination of the extent of compliance shall rest with the Community Development Director.

j) Development and urban design standards.

i) Building and site development standards for the UD-UAZ: University District, University Avenue Zone.

a. UAZ: Block, lot, and density standards.

| | | |
|---|---|---|
| 1 | Maximum Block Size (For new subdivisions and/or resubdivided parcels or tracts) | All new subdivisions shall require the construction of new streets that create blocks with a maximum perimeter of 2,000 linear feet. When a full block cannot be constructed, street stubs-outs to adjacent properties shall be provided to allow for the future connection and completion of the block by subsequent development. |
| 2 | Density | Up to 36 units per acre by right and up to 54 units per acre provided that outdoor space is appropriately designed into the project as defined herein and deemed acceptable by the city. Accessory units and guest dwellings are excluded from this calculation. |
| 3 | Lot Width | No minimum except as needed to meet other requirements in this section. |
| 4 | Lot Depth | No minimum except as needed to meet other requirements in this section. |
| 5 | Impervious Surfaces | No more than 90 percent of the site shall consist of impervious surfaces. |

b. UAZ: Setbacks—Primary building.

| | | |
|---|---|---|
| 1 | Front Setback—Arterials | A minimum five-foot setback is required. Within the setback, awnings, porches, window shades, bay windows among other architectural features shall be incorporated into facade design. Buildings that require a setback greater than five feet shall use that setback frontage for active or passive open space as defined herein. |
| 2 | Front Setback—Non-Arterials | A minimum five-foot setback is required. No specific architectural features are necessary in the facade design. |
| 3 | Secondary Front Setback | Five-foot minimum |
| 4 | Side Setback | Ten-foot minimum |
| 5 | Rear Setback | Ten-foot minimum |

c. UAZ: Building design (primary building).

| | | |
|---|---|---|
| 1 | Number of Floors | 3 floors maximum if single use plus an optional basement by right. BONUS: Up to four floors maximum with either open space as defined herein or mixed land use considerations incorporated into the development. Up to five floors maximum with open space and mixed land use considerations incorporated into the development. |
| 2 | Architectural Definition | Buildings over two stories shall have a well-defined base, middle, and top such that architectural details articulate the different uses at lower building levels. |
| 3 | Ground Floor Elevation | The elevation of the ground floor may be elevated a maximum of five feet above the average grade of the site along the front facade of the building. If it can be demonstrated that elevation above five feet is necessary due to floodplain or similar site issues, consideration of said elevation may be considered. If the ground floor is designed to accommodate nonresidential uses, the elevation of the ground floor should be placed near the elevation of the sidewalk to minimize the need for stairs and ADA ramps. |
| 4 | Ground Floor Height | If the ground floor is designed to accommodate nonresidential space, the height of the ceiling (as measured from floor plate to floor plate) shall be at least 12 feet for buildings less than three floors and at least 16 feet for buildings with three or more floors. |

| | | |
|---|---|---|
| 5 | Maximum Height | 75-foot maximum as measured from the average grade of the site along the front facade of the building. For buildings greater than 30 feet or two stories, the upper stories shall be stepped back from the line of the front facade to provide areas for outdoor terraces, rooftop patios, etc. |
| 6 | Maximum GFA per single use | A single use shall not exceed 15,000 square feet of GFA per building. |

d. UAZ: Frontage elements (primary building).

| | | |
|---|---|---|
| 1 | Entrance and Frontage | The primary entrance shall be located on the facade along the primary front setback. The entrance shall be located within a stoop, storefront, terrace/lightwell, gallery, or forecourt frontage. |
| 2 | Rear Access | The appearance of rear entrances should orient customers and provide safe and convenient access to the building without sacrificing the primary entrance purpose. |
| 3 | Windows, All Floors | At least 50 percent of the surface area of ground floor primary front and secondary front setback facades with storefronts shall be occupied by windows with Glazing of no less than 60 percent transparency. At least 20 percent of the surface area of all other facades shall be occupied by windows. Numerous smaller openings rather than a few large ones shall be provided along these facades in the accomplishment of this provision. Reflective, translucent or opaque glass is prohibited. |

e. UAZ: Placement of surface parking and accessory buildings.

| | | |
|---|---|---|
| 1 | Front Setback | No closer than the rear facade of the primary building(s), 40 feet, or at least 50 percent of the lot depth, whichever is less. |
| 2 | Secondary Front Setback | Eight-foot minimum—Parking lot<br>Ten-foot minimum—Accessory building |
| 3 | Side Setback | A setback is not required. No encroachment into ROW permitted. Stormwater required to be contained on subject parcel. |
| 4 | Rear Setback | A setback is not required. No encroachment into ROW permitted. Stormwater required to be contained on subject parcel. |

f. UAZ: Placement of parking structures.

| | | |
|---|---|---|
| 1 | Front Setback | A setback is not required if liner building is designed into and a component part of the parking structure (Please refer to definitions—Parking garage with liner building). If the design involves a separate parking structure from a liner building, the structure may be placed no closer than the depth of the liner building across the entire lot. Building code separation shall be required when applicable. |
| 2 | Secondary Front Setback | Five-foot minimum |
| 3 | Side Setback | Ten-foot minimum. |
| 4 | Rear Setback | Ten-foot minimum. |

g. UAZ: Building design (accessory buildings).

| | | |
|---|---|---|
| 1 | Number of Floros | One to two floors, not to exceed number of floors of the primary building. |
| 2 | Maximum Height | 24-foot maximum as measured from the average grade of the site along the rear facade of the building. |

h. UAZ: Outdoor lighting.

| | | |
|---|---|---|
| 1 | Yard or Outdoor Lighting | Ensure that any outdoor lighting follows **Sec. 38-9. Outdoor Lighting**. |
| | | For nonresidential uses, it is recommended that the UAZ should have a lighting curfew of 12:00 a.m. or close of business, whichever is later. Appropriate security lighting is hereby authorized. |
| 2 | Public Spaces | Pedestrian scale lighting shall be installed throughout the University District. Please refer to definitions in this overlay. |

i. UAZ: Garbage, recycle, mechanical equipment, loading areas, and compost storage.

| | | |
|---|---|---|
| 1 | Allowed Locations | Garbage, recycle, and compost receptacles shall be stored within a garage, an outbuilding, or a rear or side yard that is enclosed by a wall or fence that meets **Sec. 38-8. Fencing, Screening, and Buffering**. Mechanical equipment and loading areas shall be located away from the street edge and screened from any right-of-way vantage point as applicable. |

ii) Building and site development standards for the UD-TZ: University District Transition Zone.

a. TZ: Block, lot, and density standards.

| | | |
|---|---|---|
| 1 | Maximum Block Size (For new subdivisions and/or resubdivided parcels or tracts) | All new subdivisions shall require the construction of new streets that create blocks with a maximum perimeter of 2,000 linear feet. When a full block cannot be constructed, street stubs-outs to adjacent properties shall be provided to allow for the future connection and completion of the block by subsequent development. |
| 2 | Density | 10 minimum to 24 maximum units per acre by right. Accessory units and guest dwellings are excluded from this calculation. |
| 3 | Maximum Lot Width | 100-foot maximum (as measured along the front property line) |
| 4 | Lot Depth | No minimum except as needed to meet other requirements in this section. |
| 5 | Impervious Surfaces | No more than 80 percent of the site shall consist of impervious surfaces. |

b. TZ: Setbacks—Primary building.

| | | |
|---|---|---|
| 1 | Front Setback—Arterials | A minimum five-foot setback is required. Within the setback, awnings, porches, window shades, bay windows among other architectural features shall be incorporated into facade design. Buildings that require a setback greater than five feet shall use that setback frontage for active or passive open space as defined herein. |
| 2 | Front Setback—Non-Arterials | A minimum five-foot setback is required. No specific architectural features are necessary in the facade design. |
| 3 | Secondary Front Setback | Five-foot minimum |
| 4 | Side Setback | Ten-foot minimum |
| 5 | Rear Setback | Ten foot minimum |

c. TZ: Building design (primary building).

| | | |
|---|---|---|
| 1 | Number of Floors | Three floors maximum if single use plus an optional basement by right. BONUS: Up to four floors maximum with either open space as defined herein or mixed land use considerations incorporated into the development. |
| 2 | Architectural Definition | Buildings over two stories shall have a well-defined base, middle and top such that architectural details articulate the different uses at lower building levels. |
| 3 | Ground Floor Elevation | The elevation of the ground floor may be elevated a maximum of five feet above the average grade of the site along the front facade of the building. If it can be demonstrated that elevation above five feet is necessary due to floodplain or similar site issues, consideration of said elevation may be considered. If the ground floor is designed to accommodate nonresidential uses, the elevation of the ground floor should be placed near the elevation of the sidewalk to minimize the need for stairs and ADA ramps. |
| 4 | Ground Floor Height | If the ground floor is designed to accommodate nonresidential space, the height of the ceiling (as measured from floor plate to floor plate) shall be at least 12 feet for buildings less than three floors and at least 16 feet for buildings with three or more floors. |
| 5 | Maximum Height | 35-foot maximum as measured from the average grade of the site along the front facade of the building. For buildings greater than 30 feet or two stories, the upper stories shall be stepped back from the line of the front facade to provide areas for outdoor terraces, rooftop patios, etc. |
| 6 | Maximum GFA per single use | A single use shall not exceed 10,000 square feet of GFA. |

d. TZ: Frontage elements (primary building).

| | | |
|---|---|---|
| 1 | Entrance and Frontage | The primary entrance shall be located on the facade along the primary front setback. The entrance shall be located within a stoop, storefront, terrace/lightwell, gallery, or forecourt frontage. (Buildings on corner lots: Primary frontage is the facade that faces the street that corresponds to the property address.) |
| 2 | Windows, All Floors | At least 50 percent of the surface area of ground floor front and external side facades with storefronts shall be occupied by windows. At least 20 percent of the surface area of all other facades shall be occupied by windows. Numerous smaller openings rather than a few large ones shall be provided along these facades in the accomplishment of this provision. Reflective, translucent, or opaque glass is prohibited. |

e. TZ: Placement of surface parking and accessory buildings.

| | | |
|---|---|---|
| 1 | Front Setback | No closer than the rear facade of the primary building(s), 40 feet, or at least 50 percent of the lot depth, whichever is less. |
| 2 | Secondary Front Setback | Eight-foot minimum—Parking lot<br>Ten-foot minimum—Accessory building |
| 3 | Side Setback | A setback is not required. No encroachment into ROW permitted. Stormwater required to be contained on subject parcel. One-hour fire-rated wall required pursuant to the building code. |
| 4 | Rear Setback | A setback is not required. No encroachment into ROW permitted. Stormwater required to be contained on subject parcel. One-hour fire-rated wall required pursuant to the building code. |

f. TZ: Placement of parking structures.

| | | |
|---|---|---|
| 1 | Front Setback | A setback is not required if liner building is designed into and a component part of the parking structure (please refer to definitions - Parking garage with liner building). If the design involves a separate parking structure from a liner building, the structure may be placed no closer than the depth of the liner building across the entire lot. Building code separation shall be required when applicable. |
| 2 | Secondary Front Setback | Five-foot minimum |
| 3 | Side Setback | Ten-foot minimum. |
| 4 | Rear Setback | Ten-foot minimum. |
| 5 | Exceptions | Setbacks for podium and underground parking levels may have the same setbacks as the building. Screening requirements in **Sec. 38-8.E.4. Parking Structures** apply to structures proposed in the Transition Zone (TZ) adjacent to NH Districts located outside the UD Overlay. For purposes of buffer requirements, the use on parcels shall be the primary determining factor in buffer requirements. |

g. TZ: Building design (accessory buildings).

| | | |
|---|---|---|
| 1 | Number of Floors | One to two floors, not to exceed number of floors of the primary building. |
| 2 | Maximum Height | Twenty-four foot maximum as measured from the average grade of the site along the rear facade of the building. |

h. TZ: Outdoor lighting.

| | | |
|---|---|---|
| 1 | Yard or Outdoor Lighting | Ensure that any outdoor lighting follows **Sec. 38-9. Outdoor Lighting**. |
| | | For nonresidential uses, it is recommended that the TZ should have a lighting curfew of 10:00 p.m. or close of business, whichever is later. Appropriate security lighting is hereby authorized. |
| 2 | Public Spaces | Pedestrian scale lighting shall be installed throughout the University District. |

iii) TZ: Garbage, recycle, mechanical equipment, loading areas, and compost storage.

| | | |
|---|---|---|
| 1 | Allowed Locations | Garbage, recycle, and compost receptacles shall be stored within a garage, an outbuilding, or a rear or side yard that is enclosed by a wall or fence that meets **Sec. 38-8. Fencing, Screening, and Buffering**. Mechanical equipment and loading areas shall be located away from the street edge and screened from any right-of-way vantage point as applicable. |

iv) Building and site design standards for the UD-CZ: University District Convention Zone.

a. Civic standards.

i. Introduction. Civic buildings are buildings operated by not-for-profit organizations (including governmental organizations) that are dedicated to arts, culture, education, recreation, government, transit, and or for use approved by the legislative body. The above uses with a religious foundation are not considered civic buildings.

b. Standards. The following standards apply to civic buildings:

i. Civic buildings should be architecturally distinctive, designed appropriately for their function, and designed with outdoor gathering spaces.

ii. Civic buildings may be located within civic spaces.

iii. Civic buildings shall not be subject to the standards of this article (Building Standards). The particulars of their design shall be determined by the University District Citizens Design Review Committee (UD-CDRC) and as required by the director.

c. Historic building standards.

i. Introduction. Historic buildings are structures that are listed on the National and/or New Mexico Registers of Historic Places.

ii. *Standards.* The following standards apply to historic buildings:

(a) Uses for historic buildings and properties shall comply with **Figure 36-2-32. UD Overlay Permitted Uses**.

(b) Alterations and additions to historic buildings shall comply with the Secretary of the Interior's Standards for Rehabilitation.

v) Landscaping—*All zones.* All landscape planting should serve to enhance the architectural value of the building, ground the building in the site, create a pleasant and attractive environment for pedestrians, and mitigate environmental conditions such as excess heat, strong winds, and air pollution.

a. Purpose. Landscaping standards are established for this district to create a more comfortable environment for pedestrians and transit users; to achieve the intended character of a walkable district that meets the desires of the community; and provide stormwater management by reducing runoff and improving water quality by filtering runoff before it enters the collection system. Where City uses of easement area or right-of-way requires displacement of landscaping or damage to drainage ponds, the City shall replace or repair those pond and landscaping elements to the extent possible as determined by the City.

b. Applicability. The provisions of this section shall supersede other landscaping requirements within the Municipal Code, where conflict in regulation exists, as it applies to the landscaping of the University District only.

c. Landscaping standards apply to all development in the University District with the exception of properties that are occupied by single-family residences. Landscape consists of native or drought-tolerant species of both overstory (shade and coniferous trees) and understory plantings of ornamental trees, shrubs, cacti and perennial grasses, groundcovers, and flowers, the standards for which apply to the entire site and parking lot area, excluding building area.

i. Landscaping for new development within the University District shall comply with principles of water conservation that address:

(a) Planning and design;

(b) Soil improvements;

(c) Efficient irrigation;

(d) Zoning of plants;

(e) Mulches;

(f) Turf alternatives; and

(g) Appropriate maintenance. (Please refer to Curtis Smith's article, Principles of Xeriscape.)

d. Area to be Landscaped. The required area to be landscaped is equal to a minimum of 20 percent of the total parking area. For the purposes of this article, the parking area shall be defined as the surface area of the entire tract of land excluding the building pad.

i. Parking bays in excess of ten spaces in length should be divided by intermittent landscape islands. Landscape islands shall be no less than six feet by six feet for each tree and accompanying groundcovers.

ii. One tree shall be planted in the parking lot area for every five parking spaces. Each tree shall be planted in an area that is no less than six feet by six feet.

iii. A landscape buffer no less than eight feet wide should be provided between all parking areas and the sidewalk or street, the purpose of which is to screen parked vehicles from view from the street. The buffer strip should contain a mix of shade trees, low shrubs or perennial flowers, boulders and may include a decorative fence that ensures visibility. (Please refer to fencing in section J. Development and urban design standards.) If a solid wall or dense hedge is used it should be no less than 18 inches and no more than four feet (48 inches) in height to allow views into and out of parking areas. If a berm is used, the slope should not exceed 20 percent (5:1).

iv. In parking lots larger than one acre or 200 feet or more wide, walkways are required that link perimeter sidewalks to primary building entrances.

v. Green roofs (please refer to **Sec. 36-2.D.5.f) Definitions**) may be used to meet minimum landscape requirements at a 1:1 ratio excluding the above listed requirements for landscaping parking lots.

e. Installation. The irrigation system and landscaping shall be installed before the completion of building construction and prior to the issuance of a certificate of occupancy unless a temporary certificate of occupancy or other written agreement has been arranged with the city. Such agreements extending the time of installation will be for a maximum period of nine months. (Ord. No. 978, § 4.6, 6-20-88)

f. The total required landscape area shall be evenly distributed throughout the site. Businesses offering outdoor seating within their front setbacks may reduce the required landscaping, subject to review by the city and the citizen's design review committee (to be discussed later in this Code).

g. Plants at the time of installation shall be sized and quantities shall be defined according to the following: Two 2¼-inch caliper tree, five 15-gallon shrubs, and a choice of either five one-gallon shrubs or 50 square feet of groundcover, for every 500 square feet of lot area excluding building area and parking lot area.

h. Trees shall include shade producing trees which achieve a mature size of at least 25 feet high and 25 feet spread and ornamental trees which have particular features such as spring blooms, fall foliage color or bark characteristics. Evergreen trees such as pines, junipers, and cypress are also allowed. Shrubs shall include a mix of deciduous and evergreen plants including plants native to the Chihuahuan Desert

and others adapted to our climate. Groundcovers shall serve to prevent soil erosion, provide color, and create an oasis feeling.

vi) Fencing, walls and retaining walls—General all zones.

a. Existing noncompliant fences and walls within the district may remain in place so long as they conform to existing City ordinances regarding permitting, height and placement. Increases in structure height or length shall require full compliance with fencing/wall requirements.

b. New fences/walls shall be of a generally "open" design to maintain visibility from the street. As an example, an open fence including gates has for each one-foot wide segment 60 percent of the surface area in open spaces which afford a direct view through the fence. Picket, post and rail, tubular steel and wrought iron are examples of acceptable open fencing. A base not greater than three feet in height may be used in combination with the "open" design. Chain link fencing is prohibited. All fences/walls in front yards must be "open" by design. A "closed" fence/wall is defined as a structure, including gates, which conceals from view from adjoining properties, streets, or alleys, activities conducted behind it. "Closed" fences/walls may only be constructed in side and rear yards. They are not allowed in front yards.

c. Fences, walls and hedges within the primary front yard (where primary front yard setback is determined) shall be limited to a height of four feet. The design of manmade structures shall conform to the provisions found in **b** above.

d. Fences, walls and hedges that are within five feet of the secondary front property line (side where secondary front yard setback is determined) shall be limited to a height of four feet. If the fence, wall or hedge is setback at least eight feet from the property line, the maximum height shall be limited to height of eight feet. The design of man-made structures shall conform to the provisions found in **b** above.

e. Fences, walls, and hedges that are within the rear and side yards shall be limited to a height of eight feet.

f. Retaining walls used within the various districts shall be designed in a manner limiting their height to what is absolutely necessary for the retaining purpose intended.

vii) Signage—All zones.

a. Purpose. The University District Overlay Sign Code shall be established for aesthetics, height, overall size, type, and lighting considerations for signage consistent with district urban design standards.

b. Attached signage. Only window, wall, awning signs and multi-use development directory signs are allowed. Awnings and the attached signs are subject to the design standards of all applicable codes.

i. Wall signs: Flush-mount:

(a) Commercial/nonresidential development.

- No wall sign shall project beyond the ends of the wall or beyond the top of the building to which it is affixed.
- Walls signs shall be affixed flat against the building wall. Any necessary frame mounting shall not extend more than six inches from the wall.
- Wall signs shall be placed on the ground floor of the structure in which the use takes place.
- No more than three wall signs shall be allowed per building facade in buildings with more than one business or use.
- No more than one wall sign shall be allowed per business or use per building facade. When there are more than three business occupants per building refer to the multi-use development directory sign standards of this section.

- One square foot of signage for each linear foot of exterior wall space, not to exceed 50 square feet per wall. The sign(s) shall be placed on the side of the building used to calculate the square footage of the sign. For buildings that are set back 100 or more feet from the sidewalk, signage may exceed the 50-foot maximum as determined by the Community Development Director.

(b) Multifamily residential development.

- Up to two wall signs, not to exceed 32 square feet each, with the name, logo, and associated graphics on a building containing eight or more residential units.
- Only one sign is allowed per wall. These attached signs are subject to the design standards of all applicable codes.

ii. Wall signs: Projecting:

(a) Projecting signs shall be considered double-faced signs with each sign face of equal size.

(b) Projecting signs shall not exceed 12 square feet in sign face area (six square feet per sign face).

(c) Only one projecting sign shall be allowed per business per street frontage.

(d) Only ground floor commercial businesses shall be permitted to utilize projecting signs.

(e) Projecting signs must maintain at least eight feet of clearance as measured from the bottom of the sign to grade and may project no more than four feet from the building or closer than two feet to the edge of the sidewalk, whichever is less.

(f) Projecting signs shall be installed at right angles to a building front.

iii. Window signs:

(a) There shall be no more than one permanent window sign per window.

(b) Neon signs displayed indoors constitute permanent window signs. Only one neon sign shall be permitted per business facade.

(c) The total coverage of all permanent, neon, and temporary window signs shall not exceed 25 percent of the total glass area of the window.

iv. Awnings and canopies:

(a) Awnings and canopies shall be supported solely by the building to which they are attached and no columns or posts shall be permitted as supports.

(b) No portion of an awning or canopy shall be less than eight feet above grade. However, if the awning and canopy extends beyond four feet between the building and curb, it must be 12 feet above grade.

(c) The roofs of all awnings and canopies shall be used for no other purpose than to form and constitute a roof. The roofs of all awnings and canopies shall not drain directly or into the public right-of-way. The roofs of all awnings and canopies shall be constructed in accordance with the building code.

(d) Awnings and canopies shall be designed to withstand a wind speed of not less than 90 miles per hour.

(e) Awnings and canopies shall not interfere with street trees or traffic signs.

(f) No advertising shall be placed on the awning or canopy except the name or logo of the owner, business or industry conducted within the premises, address of the building, or the building name.

(g) Lettering or logos shall be painted or otherwise permanently affixed in letters not exceeding 20 inches in height on the front and side portions thereof.

(h) Translucent awnings and canopies are not permitted.

(i) Any awning or canopy that encroaches into the public right-of-way shall obtain an approved encroachment agreement from the City's land management department prior to placement and use of the awning or canopy and comply with chapter 32 of the International Building Code, as adopted by the City.

v. Multi-use development directory sign. Exterior directory signs, with the name and location of all businesses within a multi-use development, shall be wall-mounted as specified above. One square foot of signage is allowed for each linear foot of exterior wall space, not to exceed 50 square feet per wall. The sign(s) shall be placed on the side of the building used to calculate the square footage of the sign.

c. Freestanding ground signage—All development.

i. Ground signs shall be the only freestanding signage permitted within the district.

ii. One ground sign is allowed per lot. The ground sign shall identify the primary tenant, the name of the business center or the name of the residential units.

iii. Individual ground signs shall be limited to properties which own direct, unobstructed (on-site) access to a public street.

iv. Ground signs shall not exceed 24 square feet in area, and shall not exceed three feet in height. Signs shall be placed at least five feet from the outside edge of the right-of-way, and at least five feet from adjacent property lines and not within the clear sight triangle as defined by **Sec. 38-2.H. Clear Sight Triangle**.

d. Design standards.

i. The silhouette, shape, and materials of signs in the University District Overlay shall be simple and compatible with the building or facade to which they relate.

ii. Freestanding signs shall not be placed so they obscure important architectural features such as entrances, display windows, or decorative cornices when viewed from the right-of-way.

iii. Attached signs shall not disrupt the architectural composition of the building facade. No part of any attached sign shall overlap or cover architectural features of the building such as cornices, eaves, window and door frames, columns, vigas, and other decorative elements.

iv. Signs within a business center shall be compatible with the architectural character of the center.

v. The number of different lettering styles or fonts on a sign shall be kept to a minimum, and shall relate to the architectural character of the property. Lettering and copy shall not be crowded onto a sign and shall leave ample space around the copy to preserve legibility.

vi. The visual appearance of signs shall reinforce the architectural character of the site.

vii. Illumination:

(a) Signs that are illuminated shall have concealed lighting fixtures with the exception of LED and neon.

(b) No reflectors, arms, fixtures or wires shall be visible from the street.

(c) Internally illuminated signs shall not be permitted.

(d) No sign shall be illuminated to create a nuisance, traffic hazard or excessive glare to adjacent property and shall comply with **Sec. 38-10.I.3. Sign Lighting** to prevent illumination of the night

sky so as to lessen light pollution. Please refer to **Sec. 38-2.I. Streetlighting** and **Sec. 38-9. Outdoor Lighting**.

(e) Freestanding signs shall be landscaped at their base in a manner that is compatible with the character of the site. Landscaping shall form an attractive cluster at the base of the sign.

(f) The top of any sign shall not exceed 20 feet above grade.

e. Temporary promotional banners and pole banners.

i. Building-mounted banner displays*:* In addition to permitted permanent signage, businesses and organizations in the University District Overlay are allowed temporary, promotional displays in the form of a banner for promotional purposes that are subject to the following conditions:

(a) Each business and organization, with the exception of those within the convention zone, shall be permitted one banner three times during each calendar year for a maximum of ten consecutive days each or for a maximum of 30 consecutive days. Due to the nature of the convention zone and the number of special events, banners are expected to change more frequently than three times during each calendar year.

(b) Only one banner per business or organization may be displayed at a time.

(c) Banners shall be made of a durable material that may include 12- to 16-ounce weight materials, such as, nylon or vinyl reinforced canvas. Banners must have hemmed and reinforced edges. Grommets should be located on the banner's edge to allow it to be securely fastened to its supporting structure. If grommets are not used, some other mechanism such as rope shall be placed within the hem to allow for its attachment.

(d) Banners may not exceed 25 square feet in area.

(e) Banners shall be securely attached to a permanent building.

(f) The applicant shall provide to the Community Development Director the name and address of the business/organization where the banner is to be placed, the first day the banner is to be displayed, the date it is to be removed, the size of the proposed banner, and its design.

(g) Banners may be erected only when a sign permit has been issued. All banners shall be removed not later than the permissible time limit stated above. Failure to do so may forfeit the ability to use these provisions in the future. A permit will be issued to the applicant and will remain in effect for the duration of that event.

ii. Pole banners*:* Banners may be placed on city-owned utility and light poles promoting city-sponsored events and/or messages with approval by the city manager or his/her designee. (For the purposes of pole banners, a City-sponsored event shall be defined as an event for which the City of Las Cruces donates money and/or services/personnel.) Examples of these types of messages include: "Las Cruces Sparkles on the 4th of July" and "Happy Holidays". Other governmental entities, such as New Mexico State University, may also place banners on City-owned utility and light poles that display a community-wide message and are approved by the city manager or his/her designee. Examples of these types of messages include: "Go Aggies!" and "Welcome Back to School!" Approval with New Mexico State Highway Department will also be required when appropriate. To place banners on City-owned utility and light poles, arrangements shall be made through the traffic engineering section of the public works department. Fees may be imposed to offset expenses.

f. Prohibited signs*:* The following signs are prohibited in the University District Overlay:

i. Portable and pole signs, whether temporary or permanent.

ii. Permanent banners.

iii. Pennants, streamers, and other fluttering devices, whether temporary or permanent.

iv. Temporary Ground Signs (e.g., real estate, political, construction, contractor, and "coming soon" signs) over 12 square feet in area or over five feet tall.

v. Billboards and all other off-premises signs.

vi. All other signs as prohibited in **Sec. 38-10.D. Prohibited Signs**.

g. *Applicability:* Where there are areas concerning signage not addressed by the University District Sign Code, **Sec. 38-10. Signs** shall apply.

k) Transportation (streets and public spaces).

i) Right-of-way improvements (traveled way, roadside and intersections) throughout the district shall be in accordance with the City's Active Transportation Plan and Complete Streets Ordinance. (Please refer to City Council Resolution No. 19-059 and Ordinance No. 2993.)

ii) Project initiation and preliminary engineering shall be initiated at the earliest opportunity for right-of-way improvements to the traveled way, roadside, and intersections of University Avenue between Interstate 25 and Interstate 10.

iii) Future amendments to this section are anticipated and shall convey design parameters for University Avenue as a walkable thoroughfare.

iv) Callecitas shall be considered and alleys shall be preserved, whenever possible, for improving pedestrian connectivity and providing vehicular access to properties. (Please refer to **Sec. 36-2.D.5.f) Definitions**.)

l) Parking, general—All zones.

i) Parking requirements.

a. Parking ranges are set for land uses in each zone, as noted in **Sec. 36-3.A.1. Permitted Use Chart**. Requests to reduce parking requirements shall be evaluated on a case-by-case basis by the Community Development Director. Requests to exceed maximum parking requirements shall be granted for parking structures that meet the development and urban design standards set forth in this Code.

b. Shared parking and access agreements among neighboring properties are encouraged and will count toward off-street parking requirements. **Sec. 38-2.N.4.c)ii) Shared and Joint Use of Parking Areas** dictates the requirements for this application.

c. Off-street parking requirements can be met by entering into a shared parking agreement within one-fourth mile, as measured along the street network and pedestrian right-of-way, that shall be used to identify how parking demand will be met and which properties are involved.

d. All standards for parking dimensional and ADA requirements for all development within the district shall be consistent with **Sec. 38-2.N. Off-Street Parking**.

e. All vehicles are to be parked along designated streets, in designated driveway or parking areas only. Parking on front lawns and/or landscaped areas shall be prohibited.

ii) Parking options: (Please refer to **Sec. 36-2.D.5.g) Permitted Uses** for allowed parking locations.)

To reduce development costs, parking garages are not required. Parking may be provided within an attached garage, detached garage, parking structure with or without liner building, or surface parking lot. Parking for nonresidential uses may also be provided off-site in a public parking lot or structure if a parking management district is formed for the area. Dedicated surface parking areas shall meet the landscape requirements of **Sec. 36-2.D.5.j) Development and urban design standards.** of this overlay.

iii) Parking access:

Alleys. Alleys are required for projects that create new blocks to provide access to parking areas and to minimize driveway curb cuts along streets. Alleys are encouraged (but not required) for projects on existing

blocks to provide access to parking areas. Driveway access from the street is only allowed on lots where an alley cannot be provided.

Driveways. Driveway width shall comply with City design standards.

Pedestrian connectivity. In parking lots larger than one acre or equal to or greater than 200 feet wide, walkways shall link perimeter sidewalks to primary building entrances.

Parking prohibition. A parking management plan would improve mobility and access to shops and business centers as well as controlling the amount of land dedicated to surface parking lots and parking structures. Until a parking management plan is adopted, parking shall be prohibited from 8:00 a.m. to 5:00 p.m., Monday through Friday, on the following streets:

Chaparral St. between University Ave. and Plain St. (east side only);

Hagarty Ave. between University Ave. and Plain St. (west side only);

Mesa St. between Jordan St. and Espina St. (south side only).

m) Demolition. To preserve any contributing structure listed on the historic register (state or national) in the University District Overlay; this section creates a 60-day demolition permit review process that allows time for interested parties to explore alternatives to the demolition of historic structures. Demolition for all other structures shall follow Chapters 30-491.

i) Demolition permit. Demolition permit applications shall be submitted to the Community Development Department prior to any demolition activity taking place. Community Development Department staff will review the application for compliance with this Development Code, as amended. A proposal for redevelopment of the property must accompany the permit application.

ii) Posting. At the beginning of the 60-day demolition permit review process, the Community Development Department will issue a sign that is to be posted in a conspicuous place on the property. The applicant is responsible for posting the sign and ensuring that it is in place for the entire 60-day period.

iii) At the beginning of the 60-day demolition permit review process, the Community Development Department will inform the neighborhood associations, the New Mexico Historic Preservation Division, and the Dona Ana Historic Society that a demolition permit has been applied for.

iv) A demolition permit shall be issued upon the completion of the following items: 1) the completion of the 60-day period; and 2) the application meets all City Code requirements and has been approved by the Community Development Department staff. (The applicant may use the 60-day time period to resolve any necessary code compliance comments.) The permit application may be withdrawn by the applicant at anytime without charge.

v) Prior to the demolition of a historic structure, the applicant shall be responsible for fully documenting the structure, both interior and exterior, to provide a permanent record, in accordance with documentation procedures as follows. The demolition permit will not be approved without submittal and approval of this documentation by community development staff.

a. Complete the Historic Cultural Property Inventory (HCPI) forms 1 and 2;

b. Photograph the property:

i. Photo processing, printing and labeling shall follow the protocol established by the National Parks Service; please refer to the National Register Photo Policy Fact Sheet.

ii. Take several exterior photos of the primary structure (front, rear, sides, close-up views, details, setting, etc.) and exterior photos of each historic secondary structure, such as a garage, sheds, etc. (Accessory buildings that are not listed on the historic register should not be included.) For assistance in taking quality photographs, please refer to NPS Bulletin #23 at the link listed above.

iii. Include several interior photos of the primary structure, with attention to any distinctive architectural or historic features (vigas, carvings, coping, special flooring, bullet holes, etc.)

iv. Staff strongly suggests that wide-angle camera lenses not be used for exterior photographs since these lenses tend to distort vertical dimensions of buildings. A perspective-correction lens is highly recommended for best results.

v. The submitted photo packet must include one set of black and white (B&W) photographs and full-color digital images. Printed size may be 3½ × 5; 4 × 6; or 5 × 7.

vi. Include a continuation sheet that provides information common to all photographs, followed by a list providing information pertinent to each photograph.

vii. The file name for each electronic image must correspond with the photo log included on the continuation sheet and the information labeled on the back of each photograph, and reference the county and state in which the property is located.

viii. All photographs and media (e.g., USB drive) with electronic files must be put into a folder with the property name, location, and the date the photographs were taken.

c. If measured drawings done by the Historic American Building Survey exist, the owner should annotate the drawings, showing changes to the property, interior and exterior, that have occurred up to the current date.

d. If known, a short history of the property should be included, in order to document how that property fits within the historic district or community.

e. The demolition permit will not be approved without submittal and approval of this documentation by Community Development staff.

vi) Compliance with the procedure set out in this section is not required if it is determined by the City of Las Cruces that the immediate demolition of a historic structure is in the best interest of public health, safety, and welfare. The applicant shall be responsible for documenting the structure in accordance with the procedure above to fully demonstrate the need for demolition and to provide a record of the structure. In the event that entering the structure would pose a threat to the health, safety and welfare of the documenter, interior photos are not required. This documentation must accompany the memo of determination for demolition by the building official prior to the issuance of a demolition permit.

n) Administration. Submittal and review process.

i) Purpose. Submittal and review procedures are established for all new development to protect persons and property in the University District Overlay as directed in the University District Plan.

ii) Subject to review by the Citizens' Design Review Committee (UD-CDRC).

a. Subdivisions. For submittal and review of subdivisions within the district, refer to **Sec. 37-2. Subdivision Procedures**.

b. Buildings.

i. Pre-application conference: Prior to filing an application for development of new buildings in the district, the applicant is encouraged to meet with staff of the City Community Development Department to review the proposed project. At this conference, staff shall review the development proposal and advise the applicant concerning the compatibility of the proposal with the intent and standards of the University District Plan and all other applicable City codes.

ii. Application procedure*:* Upon completion of the pre-application conference, the applicant shall submit at minimum, one copy of all application materials for new development to the Community Development Department for review. Upon submittal, staff shall review the submittal for completeness. If all the required items have been submitted, the Community Development Department shall issue a receipt for submittal.

iii. University District Citizens' Design Review Committee (UD-CDRC): Applicants shall meet with the UD-CDRC and City staff at a public meeting for a formal recommendation by the UD-CDRC regarding the proposed project.

iv. Final approval*:* An application shall be effective for no more than one year from the date of approval. If development proposed by the application has not been initiated within the one year stipulated, the application must be resubmitted for approval as established in this section. The applicant may submit a request for extension of approval prior to the expiration date, if desired. The request will be reviewed by the Community Development Department.

c. Variances*.* Variances in the numerical requirements for development within the district will be considered in accordance to fulfilling the policies of the University District Plan and not contradictory to the policies therein. Variances may be granted by the Planning and Zoning Commission at a public meeting in accordance with **Sec. 36-5.F. Zoning Variances**.

i. An application for a numerical variance will be processed by applicable City departments and the Citizen's Design Review Committee.

ii. Applicants must present their request to the citizen's design review committee for their recommendation to the Planning and Zoning Commission. Recommendations from the UD-CDRC shall be delivered to the Planning and Zoning Commission prior to the public meeting.

iii. Decisions of the Planning and Zoning Commission may be appealed to City Council, in accordance with **Sec. 34-3.F. Appeals**.

d. Special use permit (SUP). The Community Development Director determines SUP needed for uses not listed in this overlay.

e. Zone change*.* Applicants must present requests for zone change to the citizen's design review committee for the committee's recommendation to the Planning and Zoning Commission. Recommendations from the design review committee shall be delivered to the Planning and Zoning Commission prior to the public meeting. Decisions of the Planning and Zoning Commission may be appealed to City Council in accordance with **Sec. 34-3.F. Appeals**.

f. Plan amendments, code amendments. Applicants must present requests for plan amendments and code amendments to the University District Citizen's Design Review Committee (UD-CDRC) for the committee's recommendation to the Planning and Zoning Commission. Such requests will be considered once a year at the January meeting of the UD-CDRC. An exception to the once-a-year rule and expedited review applies to cases deemed necessary by the city in order to ensure successful implementation of the goals and objectives of the plan and ordinance where there is direct conflict between the plan and overlay. The UD-CDRC will determine which amendments may be processed gratis; all others incur a fee established by Resolution No. 00-360, July 3, 2000. Recommendations from the UD-CDRC shall be delivered to the Planning and Zoning Commission prior to the public meeting. Recommendation of the Planning and Zoning Commission are made to City Council which makes the final decision.

g. Property alteration, remodel or renovation. Any related activities to existing buildings within the district shall require review by the Community Development Department and the citizen's design review committee to ensure that the building and the property of the site will be brought into conformance with all applicable urban design standards of the University District Plan and this section.

A portion of the submittal requirements may not be required in all renovation cases. Upon receipt of a written request justifying the deletion of required information, the Community Development Department may waive any submittal requirement.

iii) Courtesy review of NMSU projects. Although NMSU is neither within the City limits, nor subject to its jurisdiction, the campus and City share a stake in development along University Avenue and in the region as a whole. As such, the UD-CDRC respectfully requests "courtesy design review" of the university's projects, particularly those planned for and close to University Avenue.

iv) Subject to administrative review by Community Development Department staff.

a. Request to vacate alley;

b. Signs;

c. Minor modifications. A modification or change to a property that is less than a cumulative total of 15 percent of gross floor area, nor exceeds a cumulative total of $25,000.00 in valuation.

v) Application materials and fees. Applications for development in the University District Overlay shall be obtained from the community development department. All applicants with submittals requiring public notice, such as new development and/or property renovation, shall be required to submit a development statement with their application. Development statement forms may be obtained from the community development department. Application and permitting fees are waived for development in the University District. Requirements for applications for all types of development shall include the following:

a. A letter of intent stating the following:

i. A statement of the purpose and use of the property.

ii. All property improvements to be made.

iii. A statement of the sustainable building practices to be employed.

iv. A development schedule indicating the approximate dates at which construction or phases of construction will begin and end.

b. A boundary survey as prepared by the appropriate licensed professional that is accurate and complete shall be made of the land to be developed. Property lines shall be shown giving the bearings in degrees, minutes and seconds. Distances shall be shown in feet and hundredths. Curved boundaries or lines on the survey shall provide sufficient data to enable the re-establishment of curves on the property. The location and description of all monuments set or found shall be included when applicable.

c. Site plan. The site plan shall be at a scale that adequately represents the information. Copies provided shall be legible and of a good quality, with no limit to the number of sheets used. The plans shall indicate the following:

i. Title of site plan.

ii. Total acreage of site.

iii. Date of preparation, north arrow, written and graphic scale.

iv. Identification of district planning area.

v. Identification of site by lot, block, subdivision, if applicable.

vi. A statement of ownership, signed by the property owner.

vii. Name and address of property owner.

viii. Name and address of applicant, if applicable.

ix. Name and address of consulting firm or representative, if applicable.

x. Location and type of all land uses.

xi. All site improvements with all setbacks indicated.

xii. Dimensions of all buildings.

xiii. Existing and proposed vehicular circulation systems, including parking areas, storage areas, service areas, loading areas, and major points of access, including street pavement width and right-of-way.

xiv. A landscaping plan, to include the location, size, common name, and biological name of all landscaping materials.

xv. Where applicable, pedestrian and bicycle circulation system, and its relation to surrounding circulation.

xvi. Where applicable, location and arrangement of all open space, common recreational space, and private open space.

xvii. Architectural renderings or artistic drawings. Copies provided shall be legible and of a good quality, with no limit to the number of sheets used. The drawings shall illustrate the following:

(a) All new development illustrating all exterior building design, materials, and colors.

(b) All new development illustrating relationships to neighboring uses, including site lighting.

(c) Sign location, materials, color, size, shape and lighting.

(d) Quality of materials: Application materials that are illegible and/or otherwise of a low quality will not be accepted.

d. Three-dimensional model. For projects proposed in the convention zone (CZ), provide computer-generated or physical modeling to enhance public understanding and review of the buildings within the context of the district as a whole.

e. *Waivers.* A portion of the submittal requirements may not be required in all development cases. Upon receipt of a written request justifying the deletion of required information, the community development department may waive any submittal requirement.

o) Enforcement of overlay zone district. Provisions to enforce this section shall be consistent with the enforcement provisions of **Sec. 34-1.H. Violations and Enforcement**.

## E. DDC, Downtown Development Code

1. Purpose

   The purpose of this section and the zoning districts defined herein is to accommodate government facilities, retail, office, residential, and other similar uses in the Downtown area of the City with appropriate height, yard, and intensity standards to allow for a higher density and intensity of development. Further, the properties described within the Main Street (MS) zoning district are identified as a special area within the Downtown to encourage revitalization through incentives and clearly defined development standards. See **Figure 36-2-33. Downtown Regulating Plan** for the district boundaries, See **11. MS Architectural Standards** for development standards that apply to the MS district only.

   a) The Downtown Development Code is designed to foster infill redevelopment in a mixed-use pattern as part of a vibrant, diverse downtown.

   b) This Section is intended to promote traditional urban form and a lively mix of uses, allowing for shopfronts, sidewalk cafes, and other commercial uses at the street level, with wide sidewalks and shade trees, overlooked by upper story residences and offices. It also provides a setting for major activities that benefit the community such as markets, festivals, and entertainment.

   c) A range of open spaces should be distributed within adjacent neighborhoods and throughout downtown.

   d) Buildings and landscaping should contribute to the physical definition of thoroughfares as civic places.

   e) The transect designations in **2. Zoning Districts** below shall describe the general character of downtown.

2. Zoning Districts

   Zoning districts are limited to the following transect designations:

   a) Downtown (DT): This district consists of higher-intensity mixed-use buildings that accommodate retail, offices, institutional, and residences. The thoroughfares have wide sidewalks with street trees, and buildings are set close to the sidewalks.

   b) Main Street (MS): This district is similar in use and character to DT, but the massing and proportions are in harmony with an urban core.

   c) General Urban (GU): This district includes a mix of uses, but is primarily in the form of medium-intensity mixed use structures. It may have a wide range of building types: residences, live-work units, commercial buildings, theaters, and mixed-use buildings. The thoroughfares have wide sidewalks and buildings are set close to the sidewalks.

3. Downtown Regulating Plan

   a) The regulating plan is the zoning map and principal tool for implementing the Downtown Master Plan, as amended. It identifies the transect district for the building site (See **Figure 36-2-33. Downtown Regulating Plan**) which regulates standards for each lot.

   b) New development in Downtown shall provide sidewalk improvements, civic spaces as needed, and contribute to a shared parking and access strategy to create a complementary pattern for growth and development. The rules below will enhance a compact, economically sustainable, mixed-use downtown that complements the adjacent neighborhoods and provides flexible opportunities for residential, employment, government, institutional, and commercial uses.

   c) Where present, alleys shall provide access to the rear of all lots. Alley dedication and construction within the rear setback is required as part of a redevelopment project if they do not exist. Alleys shall be constructed pursuant to **17. Streetscape** and **Sec. 38-2.E.7. Alleys**.

4. Instructions

   a) Find the transect zone for your parcel in **Figure 36-2-33. Downtown Regulating Plan**.

b) Site and building plans submitted under this Section shall include the following, in compliance with the standards described in this Section:

i) Site Plan/Building Placement (See **6** below)

ii) Building Specifications including floor plans (See **7** through **10** below)

iii) MS Architectural Standards, if applicable (See **11** below)

iv) Fencing (See **12** below)

v) Signs (See **13** below)

vi) Use (See **14** below)

vii) Parking (See **15** below)

viii) Landscaping (See **16** below)

ix) Streetscape, if applicable (See **17** below)

c) Site and building plans submitted under this Section require review by respective City departments for appropriate compliance with other applicable City codes and ordinances and final approval by the Community Development Department.

5. Existing Building and Property Alteration, Remodel, or Renovation

a) For the purpose of this section, alteration, remodel, or renovation shall be defined as: Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, as well as any change in rooflines, or any enlargement to or diminution of a building or structure, whether horizontally or vertically.

b) Minor modifications. For the purpose of this section, a minor modification shall be one that does not result in an alteration, remodel, or renovation as described in **a)** above. The minor modification of an existing building or property is permitted by-right if such changes result in greater conformance with the purposes and specifications of this Section. The minor modification must comply with the design standards and codes unless, through the determination of the Community Development Director, said compliance would substantially create an undue burden to the property owner or create a condition whereby the expansion and compliance measure, partially applied, would be substantially out of character with the existing development.

c) Existing buildings and properties that do not conform to the provision of this Section may continue in use as they are. However, they shall be brought into compliance with current codes and standards (to the extent possible, as determined by the Community Development Director) when:

i) The building remains vacant for a period of one continuous year or greater; or

ii) Alteration, remodel, or renovation causes one-time or cumulative amendments to 30 percent or greater of the gross square footage of building area; or

iii) A change in use occurs on the property that results in the alteration of the use orientation (e.g., service to retail), density (e.g., eight dwelling units to 15 dwelling units), or occupancy type from the building code perspective.

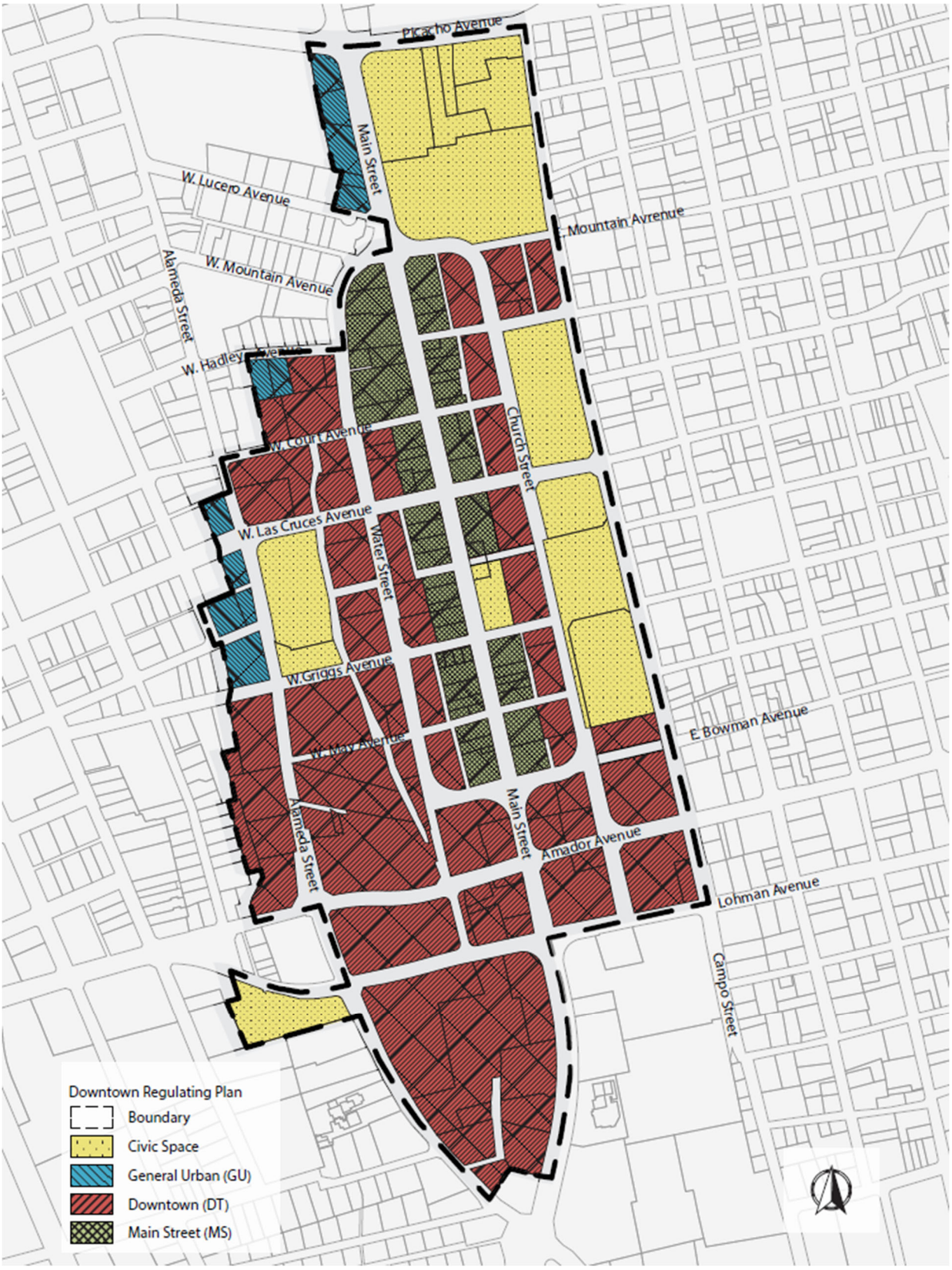
d) Once permission to proceed has been granted by the Community Development Director, the applicant may apply for the permit. Work shall not commence until permit approval is granted.

e) The restoration or rehabilitation of an existing building shall not require the provision of parking in addition to that existing, nor on-site stormwater retention/detention in addition to that existing, unless otherwise required by County or State code.

f) Normal maintenance activities, as verified by the Building Official, are exempt from this provision.

g) Should an applicant not agree with the interpretation by the Community Development Director, the interpretation may be appealed to the Planning & Zoning Commission.

**Figure 36-2-33. Downtown Regulating Plan**



6. Building Placement

   a) Lot coverage by building shall not exceed that recorded in **Figure 36-2-34**, **Figure 36-2-35**, and **Figure 36-2-36**.

   b) Facades shall be built parallel to the principal frontage line, and along a minimum percentage of the frontage width at the setback, as specified as frontage buildout in **Figure 36-2-34**, **Figure 36-2-35**, and **Figure 36-2-36**.

   c) Setbacks for principal buildings and accessory buildings shall be as shown in **Figure 36-2-34**, **Figure 36-2-35**, and **Figure 36-2-36**. Setbacks may be adjusted by up to 10 percent by administrative waiver to accommodate specific site conditions. The Director shall make the following written findings:

      i) The waiver is consistent with the provisions of **2. Zoning Districts**.

      ii) The waiver is consistent with the Downtown Master Plan.

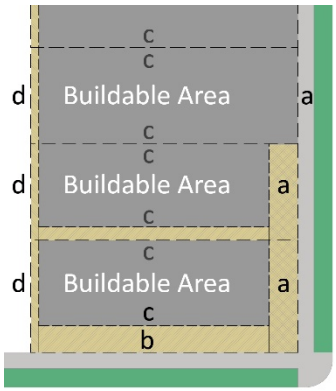
      iii) The building placement will not materially endanger the public health or safety.

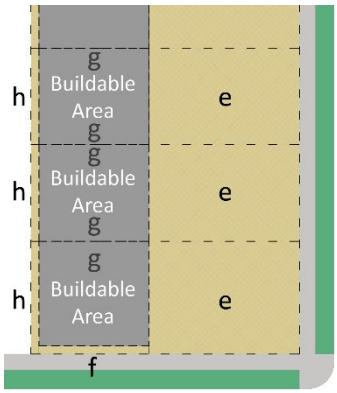
      iv) The location and character of the building placement, if developed according to the plans and information approved, will be in harmony with proximate land uses, and consistent with the purposes of the district.

      v) The building placement will not adversely affect Downtown by altering its character.

**Figure 36-2-34. Building Form Standards – GU**

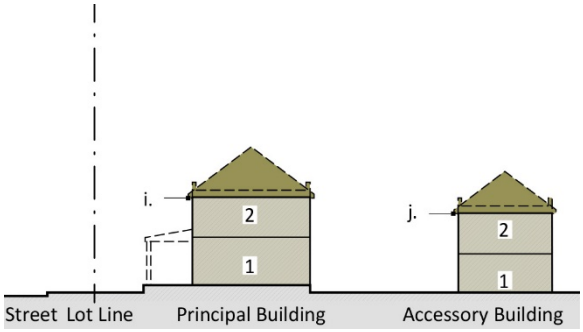
## BUILDING SETBACKS



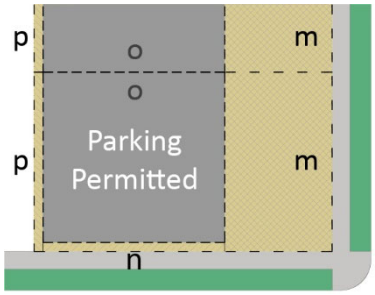




| PRINCIPAL BUILDINGS | | | ACCESSORY BUILDING | | |
|---|---|---|---|---|---|
| a | Primary Frontage | 15’ max. | e | From Rear Lot Line | 40’ max. |
| b | Secondary Frontage | 10’ max. | f | Secondary Frontage | 5’ min. |
| c | Side Lot Line | 0’ or 5’ min. | g | Side Lot Line | 0’ min. |
| d | Rear Lot Line | 3’ min. | h | Rear Lot Line | 3’ min. |

## BUILDING ENVELOPE




## PARKING AND STORAGE SETBACKS



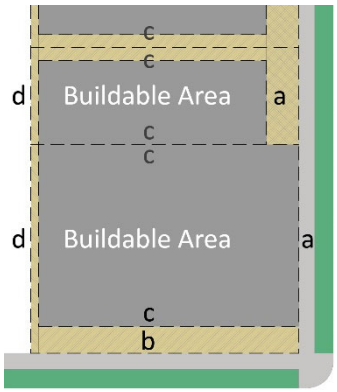

| | | | | | |
|---|---|---|---|---|---|
| i | Building Height | 2.5 stories max. (i.e., 2 stories plus an attic level) | m | Primary Frontage | 20’ + principal building setback |
| j | Accessory Building Height | 2 stories max. | n | Secondary Frontage | 5’ min. |
| k | Parking Height | n/a | o | Side Lot Line | 0’ min. |
| l | Lot Coverage | 70% max. | p | Rear Lot Line | 3’ min. |

## BUILDING FRONTAGE

| | | |
|---|---|---|
| Permitted Frontages, see **Figure 36-2-37** and **Figure 36-2-38** | Yard<br>Walled Yard<br>Terrace<br>No Yard | Yard<br>Porch<br>Stoop<br>Shopfront |
| Frontage Buildout | 60% min. | |

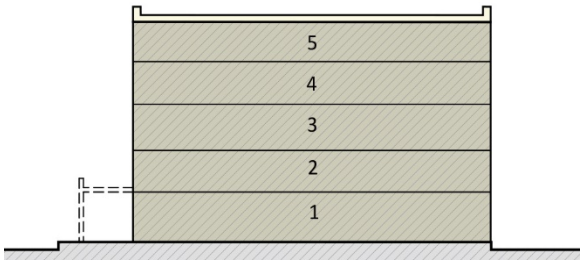
**Figure 36-2-35. Building Form Standards – DT**

## BUILDING SETBACKS

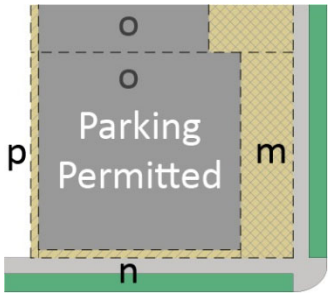



| PRINCIPAL BUILDINGS | | | ACCESSORY BUILDING | | |
|---|---|---|---|---|---|
| a | Primary Frontage | 12’ max. | e | From Rear Lot Line | n/a |
| b | Secondary Frontage | 8’ max. | f | Secondary Frontage | n/a |
| c | Side Lot Line | 0’ or 5’ min. | g | Side Lot Line | n/a |
| d | Rear Lot Line | 3’ min. | h | Rear Lot Line | n/a |

## BUILDING ENVELOPE




## PARKING AND STORAGE SETBACKS

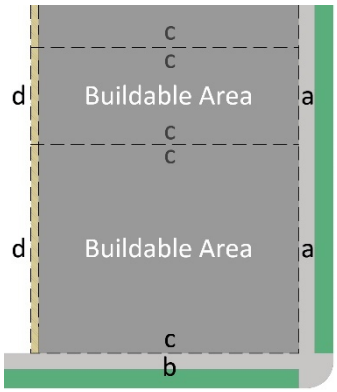
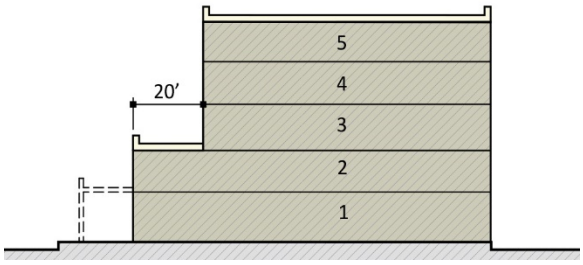
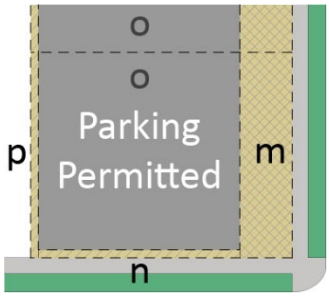



| | | | | | |
|---|---|---|---|---|---|
| i | Building Height | 5 stories max. | m | Primary Frontage | 20’ + principal building setback |
| j | Accessory Building Height | n/a | n | Secondary Frontage | 5’ min. |
| k | Parking Height | 5 stories max. | o | Side Lot Line | 0’ min. |
| l | Lot Coverage | 100% max. | p | Rear Lot Line | 3’ min. |

## BUILDING FRONTAGE

| | | |
|---|---|---|
| Permitted Frontages, see **Figure 36-2-37** and **Figure 36-2-38** | Yard<br>No Yard<br>Terrace<br>Forecourt | Configuration<br>Stoop<br>Common Entry<br>Shopfront<br>Gallery |
| Frontage Buildout | 70% min. | |

**Figure 36-2-36. Building Form Standards – MS**

| BUILDING SETBACKS | | | | | |
|---|---|---|---|---|---|
|  | | | | | |
| **PRINCIPAL BUILDINGS** | | | **ACCESSORY BUILDING** | | |
| a | Primary Frontage | 0’ max. | e | From Rear Lot Line | n/a |
| b | Secondary Frontage | 0’ max. | f | Secondary Frontage | n/a |
| c | Side Lot Line | 6’ max. | g | Side Lot Line | n/a |
| d | Rear Lot Line | 0’ min. | h | Rear Lot Line | n/a |
| **BUILDING ENVELOPE** | | | **PARKING AND STORAGE SETBACKS** | | |
|  | | |  | | |
| i | Building Height<br>Main Street Stepback | 5 stories max.<br>20’ after 2nd story | m | Primary Frontage | 20’ + principal building setback |
| j | Accessory Building Height | n/a | n | Secondary Frontage | 5’ min. |
| k | Parking Height | 5 stories max. | o | Side Lot Line | 0’ min. |
| l | Lot Coverage | 100% max. | p | Rear Lot Line | 0’ min. |
| **BUILDING FRONTAGE** | | | | | |
| Permitted Frontages, see **Figure 36-2-37** and **Figure 36-2-38** | | Yard<br>No Yard<br>Terrace | | Configuration<br>Common Entry<br>Shopfront<br>Gallery | |
| Frontage Buildout | | 100% min. | | | |

7. Building Specifications: Height
   a) Building height is regulated by **Figure 36-2-34**, **Figure 36-2-35**, and **Figure 36-2-36**, measured as follows:
      i) Building height is measured in above-ground stories.
      ii) Stories are measured from finished floor to finished ceiling.
      iii) Stories above the ground floor are limited to 14 feet after which height they are counted as two stories.
      iv) For residential uses, a ground floor story of 16 feet or less is counted as one story. Ground floors exceeding 16 feet in height are counted as two stories.
      v) For non-residential and mixed-uses a ground floor story shall be no less than 10 feet in height. A ground floor story of 25 feet or less is counted as one story. Ground floors exceeding 25 feet in height are counted as two stories. Mezzanines extending beyond 33% of the floor area shall be counted as an additional floor.
      vi) Height limits do not apply to unfinished attics, masts, belfries, clock towers, chimney flues, water tanks, or elevator bulkheads.
      vii) Building stepbacks shall be required in MS pursuant to **Figure 36-2-34** item i.
8. Building Specifications: Frontage Requirements
   a) Lot lines abutting a right-of-way are designated as a primary frontage or secondary frontage as follows:
      i) For lots abutting a right-of-way along a single lot line, the lot line abutting the right-of-way is designated the primary frontage.
      ii) For lots abutting a right-of-way along multiple lot lines, the lot line relating to the address of the principal building is designated the primary frontage. All remaining lot lines are designed secondary frontages.
      iii) Main Street is considered the primary frontage for all lots abutting the right-of-way.
   b) Regulations pertaining to primary frontages and secondary frontages, collectively frontage requirements, apply to the area of the lot within the front setback and secondary front setback, including the following:
      i) Building facades;
      ii) Structures that project from the façade, such as porches, terraces, stoops, awnings, canopies, and galleries;
      iii) Landscape elements and ground surfaces between the building facade and the lot line.
   c) Where building facades do not occupy the entire frontage length, a streetscreen is required as follows:
      i) Streetscreens must be between 4 and 8 feet in height.
      ii) Openings in the streetscreen for vehicular access may be no wider than 26 feet.
      iii) Streetscreens shall provide no less than 70% opacity.
   d) Frontages are regulated by frontage type according to **Figure 36-2-37**, **Figure 36-2-38**, and as follows:
      i) Landscaping, fencing, and general surface treatment are regulated according to frontage yard type pursuant to **Figure 36-2-37**.
      ii) Encroachments and configurations are regulated according to frontage configuration type pursuant to **Figure 36-2-38**.
      iii) Frontage types are a combination of frontage yard type and frontage configuration type.
      iv) Where frontage yard types permit multiple frontage configuration types, one or more frontage configuration type may be selected for each facade.
   e) Frontage types must be designated at all building frontages and must comply with the standards for that type.
   f) A shopfront frontage is required for all ground floor retail uses.

g) Building entries must be provided along frontages as follows:

   i) The principal entrance must be located at the primary frontage.

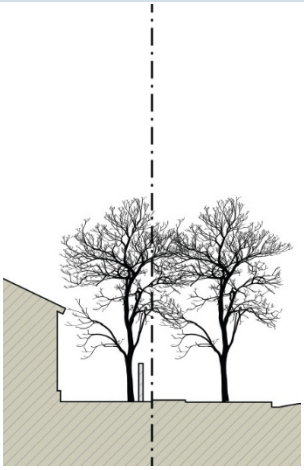
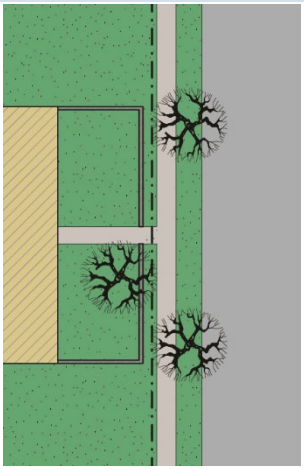
   ii) All habitable spaces within a building must be accessible from frontages.

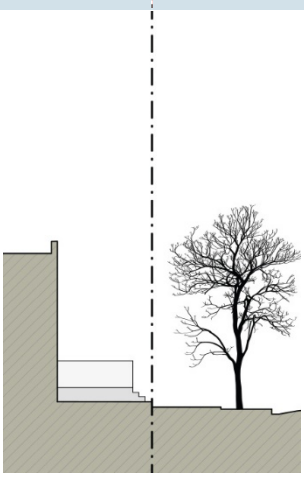
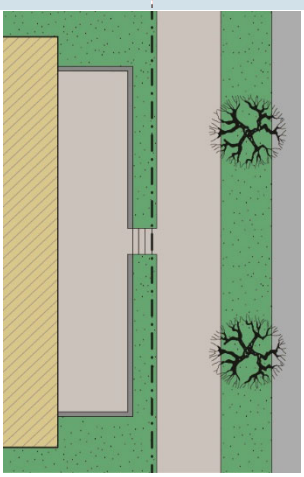
   iii) Building entries must be provided at primary frontages at a minimum of one entry for every 50 feet of frontage.

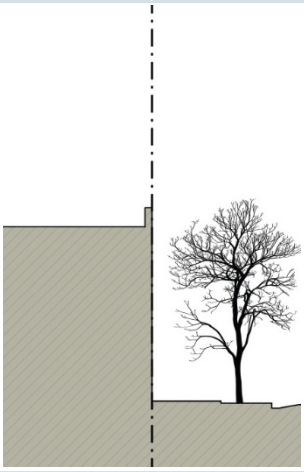
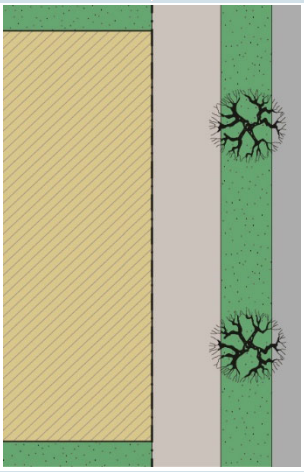
   iv) Building entries must be provided at secondary frontages at a minimum of one entry for every 150 feet of frontage.

h) Loading docks and service areas up to a combined width of 30 feet may be incorporated into secondary frontages no more than 50 feet from the rear lot line.

**Figure 36-2-37. Frontage Types – Yard**

| FRONTAGE TYPE REQUIREMENTS | | SECTION | | PLAN | |
|---|---|---|---|---|---|
| YARD A – WALLED | | PRIVATE | PUBLIC | PRIVATE | PUBLIC |
| District | GU |  | |  | |
| Setback Depth | 0’ min, 1.5’ max. | | | | |
| Combinations | Porch, Stoop | | | | |
| Landscape and Fencing Requirements | (a) The front setback must be landscaped.<br>(b) Walls are required within 18” of frontage lines.<br>(c) 1 understory tree, or 10 shrubs, is required for every 500 sf of landscaped area, or fraction thereof. | | | | |
| Additional Requirements | (a) Retaining walls are permitted for landscape level changes.<br>(b) Paving is limited to permitted walkways and driveways.<br>(c) 1 walkway per frontage providing access to the primary entrance is permitted up to 48” in width.<br>(d) This yard type must be combined with either a porch or stoop frontage. | | | | |

| FRONTAGE TYPE REQUIREMENTS | | SECTION | | PLAN | |
|---|---|---|---|---|---|
| YARD B – TERRACE | | PRIVATE | PUBLIC | PRIVATE | PUBLIC |
| District | GU, DT, MS |  | |  | |
| Setback Depth | 12’ max. | | | | |
| Combinations | Common Entry, Shopfront, Gallery | | | | |
| Landscape and Fencing Requirements | (a) The front setback must be landscaped and may be paved in DT and MS.<br>(b) Fencing is permitted at or behind the building setback line.<br>(c) In GU, fencing is permitted at frontage lines. | | | | |
| Additional Requirements | (a) The frontage setback must be raised between 12” and 36”.<br>(b) Terraces may be no less than 8’ in depth.<br>(c) Retaining walls are permitted for level changes.<br>(d) If in MS, the Terrace must be embedded within to maintain the zero setback.<br>(e) This yard type must be combined with a Shopfront or Common Entry frontage or a combination of both. | | | | |

| FRONTAGE TYPE REQUIREMENTS | | SECTION | | PLAN | |
|---|---|---|---|---|---|
| YARD C – NO-YARD | | PRIVATE | PUBLIC | PRIVATE | PUBLIC |
| District | GU, DT, MS |  | |  | |
| Setback Depth | 8’ max. | | | | |
| Combinations | Common Entry, Shopfront, Gallery | | | | |
| Landscape and Fencing Requirements | (a) The frontage setback must be paved and integrated with the public sidewalk.<br>(b) Raised planters and portable and non-permanent planters are permitted. | | | | |
| Additional Requirements | (a) The frontage setback must match sidewalk grade.<br>(b) The frontage setbacks may be used for outdoor seating and merchandise sales and display. The frontage setback may not be used for storage. | | | | |

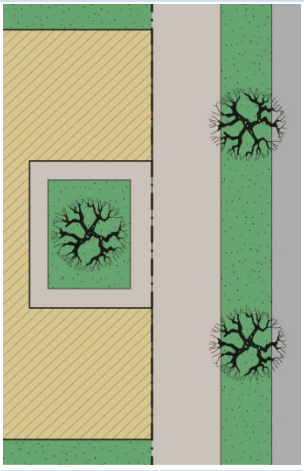
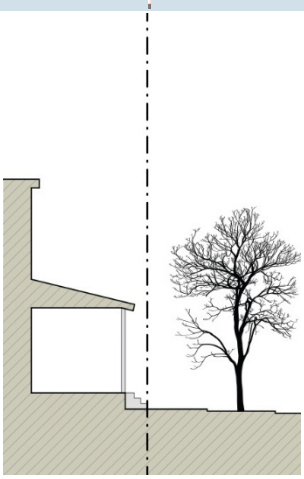
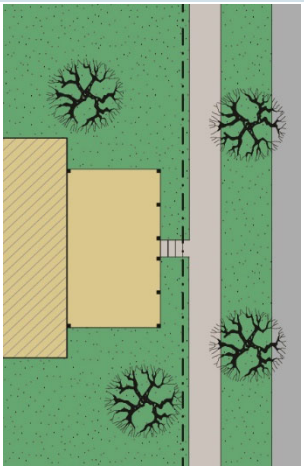
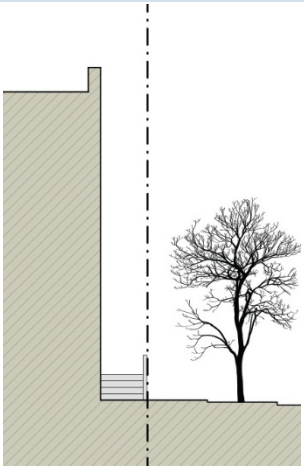
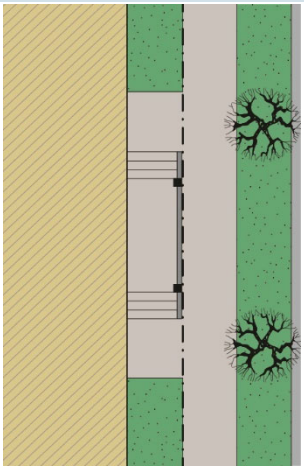
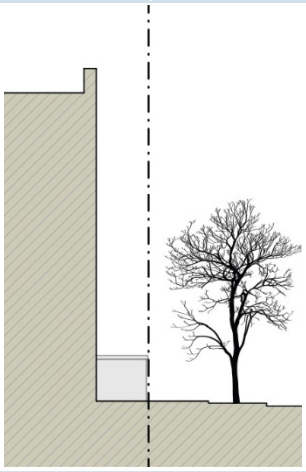
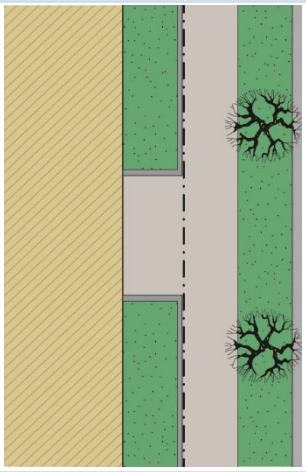
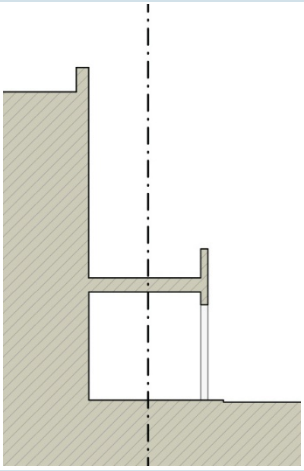
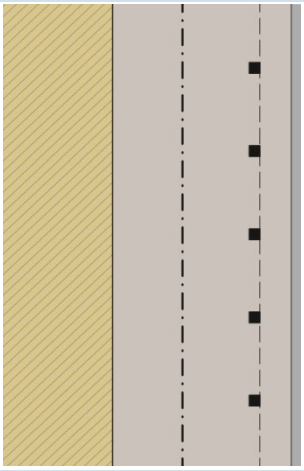
| FRONTAGE TYPE REQUIREMENTS | | SECTION | | PLAN | |
|---|---|---|---|---|---|
| YARD D – FORECOURT | | PRIVATE | PUBLIC | PRIVATE | PUBLIC |
| District | DT |  | |  | |
| Setback Depth | 8’ max., excluding Forecourt | | | | |
| Combinations | Shopfront, Common Entry, Gallery | | | | |
| Landscape and Fencing Requirements | (a) The frontage setback must be paved and integrated with the public sidewalk.<br>(b) Raised planters and portable and non-permanent planters are permitted.<br>(c) Forecourts may be paved or landscaped. | | | | |
| Additional Requirements | (a) A Forecourt shall be located at the primary entrance, and shall be no greater than 600 sf in area.<br>(b) The Forecourt must be bound by facades on a minimum of 2 sides.<br>(c) Facades at the Forecourt may exceed maximum frontage setback.<br>(d) The frontage setback must be configured according to Yard C – No-Yard. | | | | |

**Figure 36-2-38. Frontage Types – Configuration**

| FRONTAGE CONFIGURATION REQUIREMENTS | | SECTION | | PLAN | |
|---|---|---|---|---|---|
| CONFIGURATION A – PORCH | | PRIVATE | PUBLIC | PRIVATE | PUBLIC |
| District | GU |  | |  | |
| Entry Grade | 36” max. | | | | |
| Combinations | n/a | | | | |
| Setback and Encroachment | (a) Porches and related structure may encroach into frontage setbacks up to 100% of their depth in GU. | | | | |
| Additional Requirements | (a) A Porch may only occur at the primary entrance.<br>(b) Porches may be no less than 6’ in depth. | | | | |

| FRONTAGE CONFIGURATION REQUIREMENTS | | SECTION | | PLAN | |
|---|---|---|---|---|---|
| CONFIGURATION B – STOOP | | PRIVATE | PUBLIC | PRIVATE | PUBLIC |
| District | GU, DT |  | |  | |
| Entry Grade | 36” max. | | | | |
| Combinations | Common Entry | | | | |
| Setback and Encroachment | (a) Stoops and related structure may encroach into frontage setbacks up to 100%.<br>(b) Stoops may be recessed into building facades. | | | | |
| Additional Requirements | (a) A Stoop is required at the primary entrance.<br>(b) Stoops may be masonry, stone, stucco, or concrete.<br>(c) Wood is prohibited for Stoop railings.<br>(d) Stoop landings may be covered. | | | | |

| FRONTAGE CONFIGURATION REQUIREMENTS | | SECTION | | PLAN | |
|---|---|---|---|---|---|
| CONFIGURATION C – COMMON ENTRY | | PRIVATE | PUBLIC | PRIVATE | PUBLIC |
| District | DT, MS |  | |  | |
| Entry Grade | 20” max. | | | | |
| Combinations | Shopfront, Stoop | | | | |
| Setback and Encroachment | (a) Canopies and awnings may encroach into frontage setbacks up to 100% of their depth.<br>(b) Canopies and awnings may encroach into the public pedestrian way up to 10’. | | | | |
| Additional Requirements | (a) A Stoop combination is permitted in DT.<br>(b) Canopies are permitted at the primary entrance.<br>(c) Awnings are permitted along facades. | | | | |

| FRONTAGE CONFIGURATION REQUIREMENTS | | SECTION | | PLAN | |
|---|---|---|---|---|---|
| CONFIGURATION D – GALLERY | | PRIVATE | PUBLIC | PRIVATE | PUBLIC |
| District | DT, MS |  | |  | |
| Entry Grade | Sidewalk grade | | | | |
| Combinations | Shopfront, Common Entry | | | | |
| Setback and Encroachment | (a) Galleries may encroach into frontage setbacks up to 100% of their depth.<br>(b) Galleries may encroach into the public pedestrian way to up 10’.<br>(c) Awnings are not permitted in combination with Galleries. | | | | |
| Additional Requirements | (a) Galleries may be no less than 8’ in depth.<br>(b) Galleries must have a minimum clearance of 10’.<br>(c) Galleries must be supported by columns.<br>(d) Galleries must be covered by roofing, green roofing, upper terraces, trellises, solar collectors, or fabric. | | | | |

| FRONTAGE CONFIGURATION REQUIREMENTS | | SECTION | | PLAN | |
|---|---|---|---|---|---|
| CONFIGURATION E – SHOPFRONT | | PRIVATE | PUBLIC | PRIVATE | PUBLIC |
| District | DT, MS |  | | | |
| Entry Grade | Sidewalk grade | | | | |
| Combinations | Shopfront, Common Entry | | | | |
| Setback and Encroachment | (a) Display windows may encroach into frontage setbacks up to 5' in depth.<br>(b) Awnings may encroach into frontage setbacks up to 100% of their depth.<br>(c) Awnings may encroach into the public pedestrian way to up to 10'. | | | | |
| Additional Requirements | (a) Entries may be recessed from the facade up to 5' in depth.<br>(b) Tenant spaces must provide Shopfronts along no less than 70% of tenant space frontage.<br>(c) Tenant spaces with frontage on both primary and secondary frontages must provide Shopfronts along no less than 30% of the secondary frontage. | | | | |

9. Building Specifications: Encroachments.
   a) Encroachments into frontages are permitted as follows:
      i) Encroachments in frontage setback are prohibited except where specifically permitted in this Section, **Figure 36-2-37**, and **Figure 36-2-38**.
      ii) Roof overhangs, cornices, window and door surrounds and other facade decorations may encroach into the front setback up to 2 feet but not beyond the lot line, and may not obscure views from windows to the street or from the street into windows.
      iii) Shading devices may encroach into frontage setbacks as follows:
      iv) In GU, shading devices attached to facades may encroach up to 6 feet, but not beyond the lot line.
      v) In DT and MS, shading devices may encroach into the front setback up to the lot line, and into the right-of-way up to 10 feet or within 2 feet of the curb.
      vi) Balconies may encroach into the frontage setback a maximum of 3 feet, but not beyond the lot line.
      vii) Bay and bow windows may encroach into the frontage setbacks up to 3 feet, but not beyond the lot line.
   b) Encroachments into pedestrian passages are permitted as follows:
      i) A minimum of 14 feet in height must be maintained along the entire length of pedestrian passage.
      ii) Buildings and structures may encroach over pedestrian passages.
      iii) An unobstructed pedestrian path must be maintained a minimum of 5 feet in width and 8 feet in height. The pedestrian path is required to be continuous, however, it is not required to follow a straight line.
      iv) Signage, bay and bow windows, balconies, lighting fixtures, and display windows may encroach into pedestrian passages.

v) Outdoor seating, outdoor dining, and other non-permanent fixtures may encroach into pedestrian passages.

10. Building Specifications: Glazing.

a) Facade Glazing of building frontages must meet the minimum area requirements, calculated by glass area for each facade separately, as specified in **Figure 36-2-39. Minimum Facade Glazing**.

b) Mirrored and reflective glass is prohibited.

c) Shopfront frontages must meet the following Glazing requirements:

**Figure 36-2-39. Minimum Facade Glazing**

| MEASUREMENT | GU | DT |
|---|---|---|
| Ground Floor | 20% | 20% |
| Second Floor | 20% | 20% |
| Upper Floors | N/A | 20% |

i) Shopfronts must provide clear glazed areas for visibility into tenant spaces for no less than 60 percent of the shopfront area.

a. Facade area is calculated as the height from finished floor to finished ceiling times the width of the tenant space.

ii) Shopfront Glazing requirements are calculated separately for each tenant space.

d) Signs and posters shall cover no more than 30 percent of the total Glazing area.

11. MS Architectural Standards

This sub-section supersedes the zoning district standards for any subject addressed in the MS zoning district.

a) Building Width:

i) New buildings facing Main Street shall not exceed the average building width on their block except as follows:

a. Buildings may be a maximum of 150 feet wide if the facade is designed to simulate the average width of buildings on the block.

ii) Facade Standards:

a. Glazing at the second story shall not exceed 30% of the second story building facade wall area.

b. Mechanical equipment shall be screened from the street view.

iii) Sidewalk Coverings:

a. When awnings, canopies, or galleries are used, they shall be designed and installed in compliance with building codes.

b. Sidewalk coverings shall not obscure architectural details of designated historic building facades.

iv) Signs:

a. Signs shall not obscure other building elements such as windows, cornices, or architectural details.

b. Individual business signs in a single storefront shall relate to each other in design, size, and placement on the building and lettering style.

c. Externally illuminated signs shall contain light within the sign frame and shall not spill light over to other portions of the building.

12. Fencing

a) Hedges in frontage fences shall be evergreen.

b) Wood frontage fences shall be painted or stained.

c) Lot line fences shall be between 60 and 72 inches in height.

d) Frontage fences shall not exceed 48 inches in height nor violate the clear sight triangle.

e) Frontage fences may occur at the lot line, or up to 18 inches behind the lot line to permit landscaping.

f) When erected on a lot line, all of the fence and any of its supporting structures shall be contained within the lot.

g) The supporting members and posts shall be on the inside, and the smooth or flat faces on the outside. If two faces are used, each face shall be of the same type and finish. Board on board fences is considered equal treatment.

h) Chain link, barbed wire, razor wire, and electrically charged fences are not permitted.

13. Signs

The general intent of regulating signs that are visible from the public frontage is to ensure proper dimensioning and placement with respect to existing or planned architectural features, to maintain or improve public safety, to maintain or improve the aesthetic character of the context in which they are located (See **Figure 36-2-40. General Sign Restrictions**). Signage provides legible information for pedestrians as well as drivers.

Except with respect to the additional provisions in this section, **Sec. 38-10. Signs** shall be applicable and govern pursuant to the administration, processes and provisions for all signage within the City Limits of the City of Las Cruces. However, only the signage types permitted in this subsection and **Figure 36-2-40. General Sign Restrictions** hereof shall be permitted in the Downtown.

a) Prohibited Signs

i) Moving, flashing, or animated signs, including, but not limited to searchlights, streamers, and spinners;

ii) Inflatable signs, such as but not limited to balloons, gas-inflated signs, or similar inflated signs;

iii) Portable signs, except for sidewalk signs, as allowed in **Figure 36-2-40. General Sign Restrictions**;

iv) Flags, other than those specifically allowed in **Sec. 38-10. Signs**;

v) Outdoor image projections (signs projected from an external light source onto a building or structure) or any other similar devices.

b) Permitted Signs and Sign Restrictions.

i) Permitted sign types are limited by Transect district and the following restrictions according to **Figure 36-2-40. General Sign Restrictions**:

a. The number of signs per sign type;

b. The area of signs;

c. Height of sign copy.

ii) Additional sign restrictions apply per sign type, according to **Figure 36-2-41. Specific Sign Regulations**.

iii) A permit is required for the installation or modification of all signs as specified in **Figure 36-2-41** as Permit.

a. Signs projecting into rights-of-way require a permit.

b. Signs not requiring a permit must meet all of the requirements of this section.

c. Any freestanding sign over 20 feet in height above grade or any sign extending above the public right-of-way shall require the seal of a professional engineer, indicating that the sign meets all best engineering practices and standards.

iv) Signs may be installed and maintained for the period of time specified according to **Figure 36-2-40. General Sign Restrictions** as Period.

a. All signs must be removed within 14 days of the termination of the permitted period. Signs permitted for a permanent period are not regulated by this subsection.

b. Where the period of a sign is limited to during business hours, the sign must be removed during all hours the establishment is not in operation.

c. Any moveable signs must be removed from outdoor spaces during high winds or other weather conditions that might pose a hazard to public safety.

v) All signs must provide the following clearance except where specified otherwise:

a. 8 feet at pedestrian ways;

b. 13.5 feet at vehicular ways.

vi) Illuminated signs are permitted as follows:

a. Signs may be illuminated by a light source external to the sign;

b. Internally illuminated signs are permitted at shopfront frontages.

vii) Changeable copy is permitted for display cases, suspended, kiosk, ground, and sidewalk signs, and at community and regional parks. Change of copy does not require a permit.

**Figure 36-2-40. General Sign Restrictions**

| SIGN TYPE | MS | DT | PERMIT | PERIOD | NUMBER | MAX. SIZE |
|---|---|---|---|---|---|---|
| Awning | • | • | S | O | 1 sloping plane, plus 1 valence per awning | 75% of sloping plane; 75% area of awning valence |
| Banner | • | | N/A | O | 1 per frontage | 48 sqft |
| Canopy | • | | S | P | 1 per canopy | 2 sqft per linear foot of shopfront |
| Corner | • | • | S | P | 1 per building | 24 in. wide |
| Display Case | • | | S | P | 1 per business | 6 sqft |
| Ground | | | S | P | 1 per frontage | 36 sqft |
| Kiosk | • | | S | P | N/A | 24 sqft |
| Marquee | • | | S | P | 1 per entry | N/A |
| Projecting | • | • | S | P | 1 per tenant | 9 sqft |
| Sidewalk | • | • | N/A | B | 1 per tenant | 8 sqft |
| Suspended | • | • | S | P | 1 per entry | 9 sqft |
| Wall Sign | • | • | S | O | 1 per frontage | 3 sqft per 1 linear ft. up to 90% of the width of tenant space |
| Wall Mural Sign | • | • | S | P | 1 per frontage | 3 sqft per 1 linear ft. up to 90% of the width of tenant space |
| Window | • | • | S | O | 1 per window | 25% of glazed area |
| Window: Neon | • | | N/A | O | N/A | 25% of glazed area |

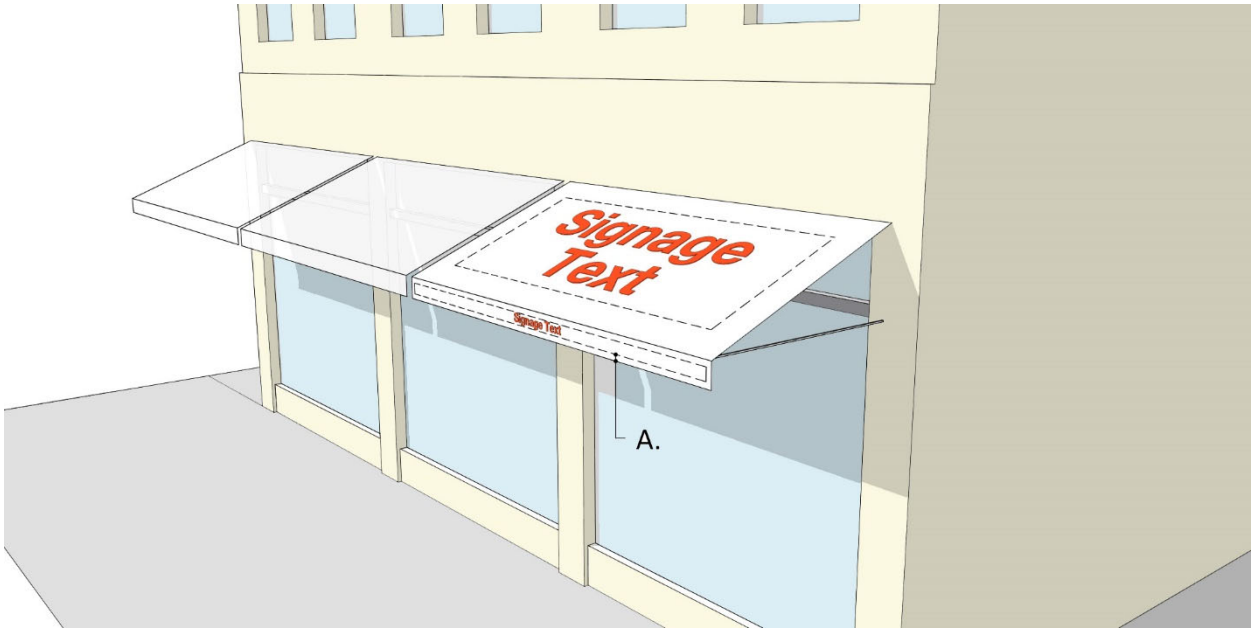
| Symbol | Meaning |
|---|---|
| • | Permitted |
| <blank> | Not Permitted |
| n/a | Not Required |
| P | Permanent |
| O | Period of Occupation |
| B | During Business House |
| S | Standards |

**Figure 36-2-41. Specific Sign Regulations**

**Awning Sign**

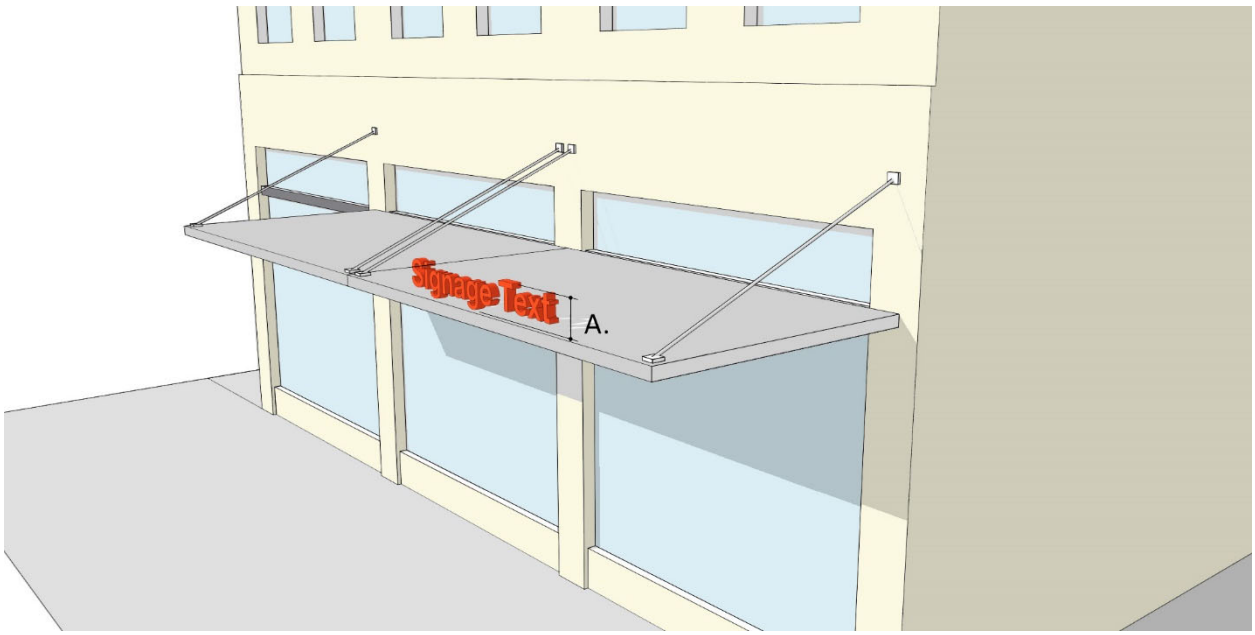
A. Signage area must have a 1" border.

B. Signage area may not exceed 75% of each portion of the sign area, which shall be calculated individually.




**Canopy Sign**

A. Canopy signs may be externally illuminated or neon. Fixtures must be shielded to prevent glare. Conduit, raceways, and wiring may not be exposed to view from the sidewalk.



## Corner Sign

A. Corner signs must provide 10’ of clearance.

B. Corner signs may extend up to 6’ above the parapets.

C. Corner signs may only be located at the corner of a building located on a corner (i.e., with both primary and secondary frontages).




## Ground Sign

A. Ground signs must not exceed 6’ in height or width with a signable area of 12 sqft max.

B. One ground sign per frontage is permitted and may be double-sided.

C. Ground signs must be constructed of durable materials.

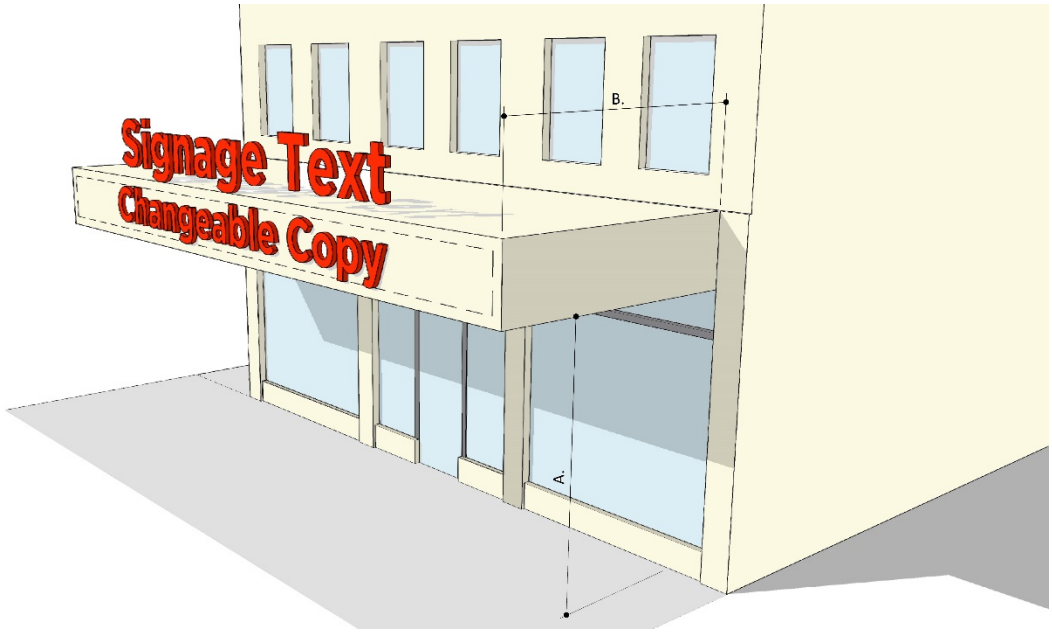


## Marquee Sign

A. Marquee signs must provide 8’ of clearance.

B. Marquee signs project to within 2’ of the curb.

C. Marquee signs may be combined with a Canopy sign or a Projecting sign.

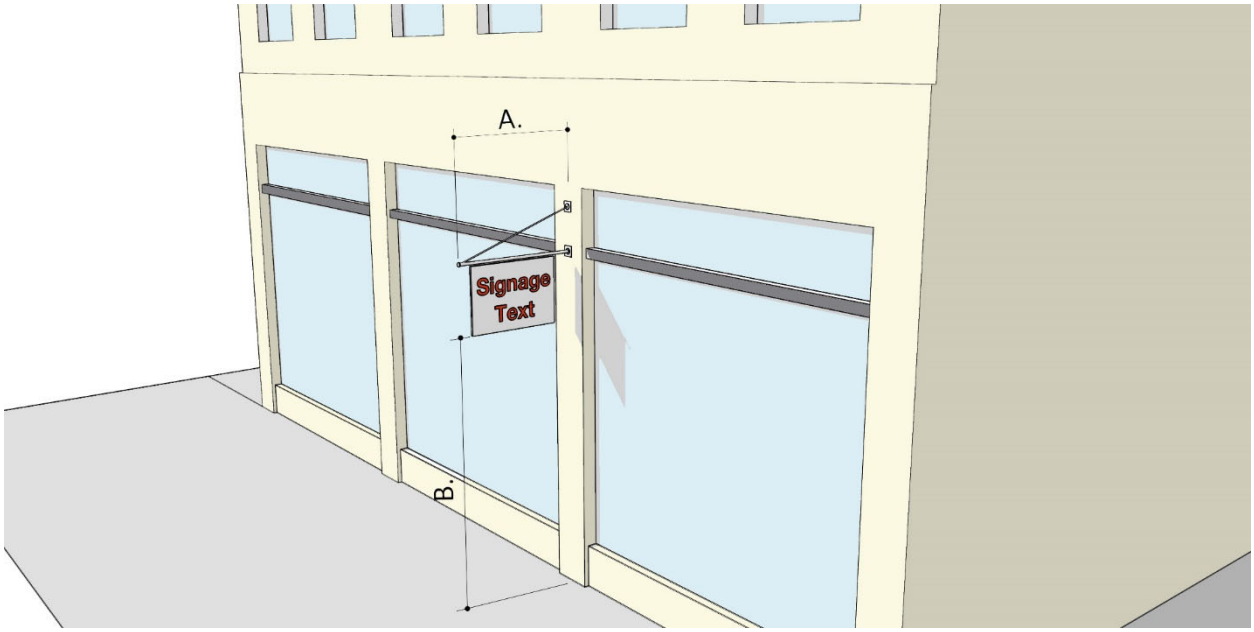



## Projecting Sign

A. Projecting signs may encroach into the right-of-way up to 3’.

B. Projecting signs must provide 8’ of clearance.

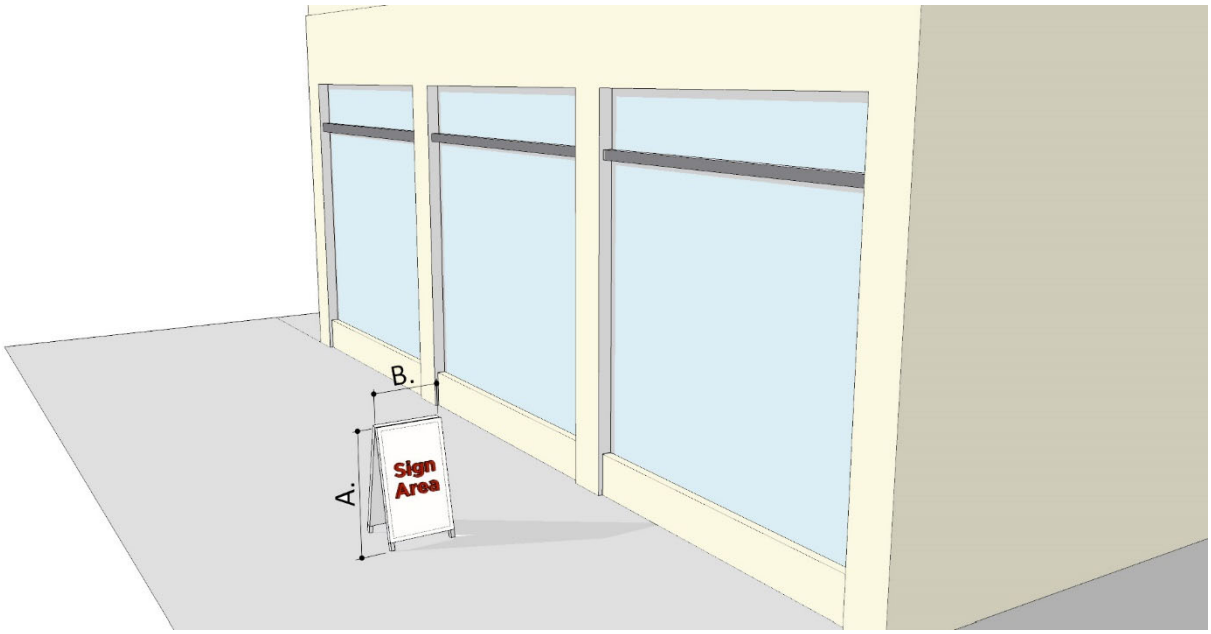
C. Projecting signs may be double-sided.



**Sidewalk Sign**

A. Sign height may not exceed 42”.

B. Sign width may not exceed 26” inches.

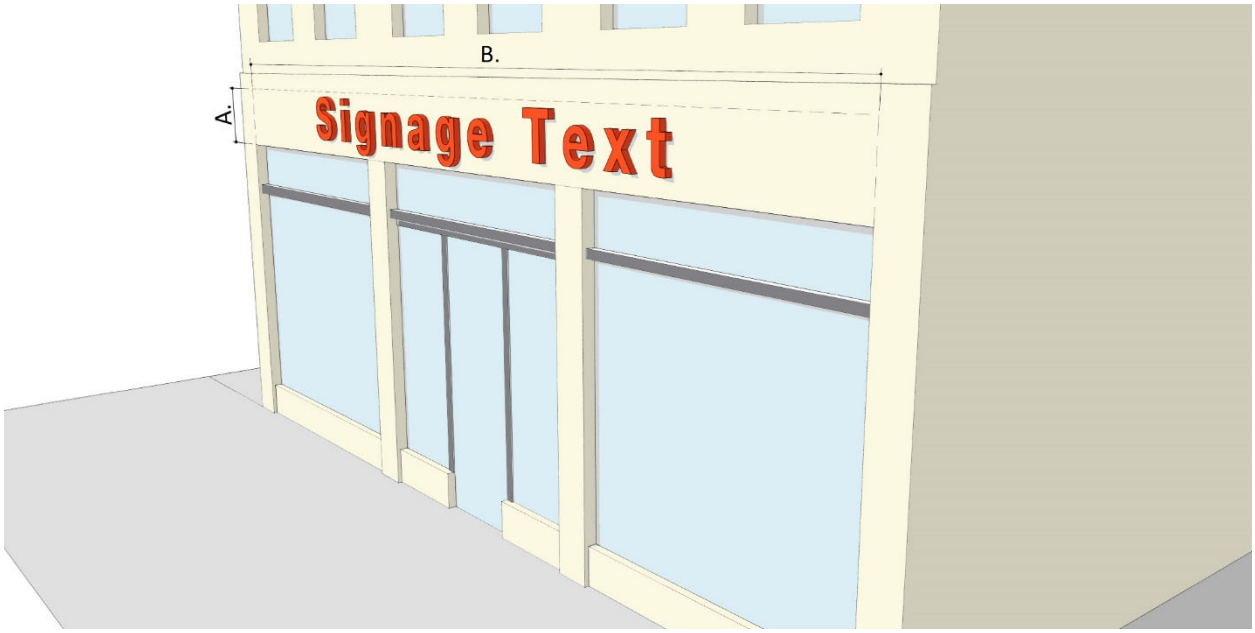



**Wall Sign**

A. Sign height may not exceed 36”.

B. Sign width may be 90% of storefront width.

C. Wall signs may be externally illuminated or neon. Fixtures must be shielded to prevent glare.



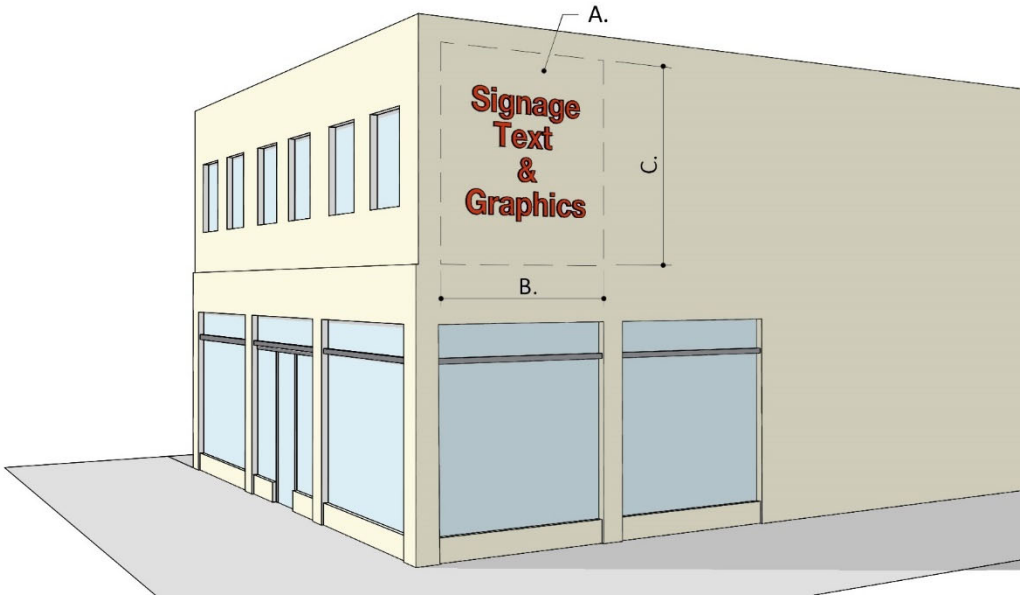
**Wall Mural Sign**

A. Signable area is 1,000 sqft max.

B. Sign width is 50’ max.

C. Sign height is 60’ max.

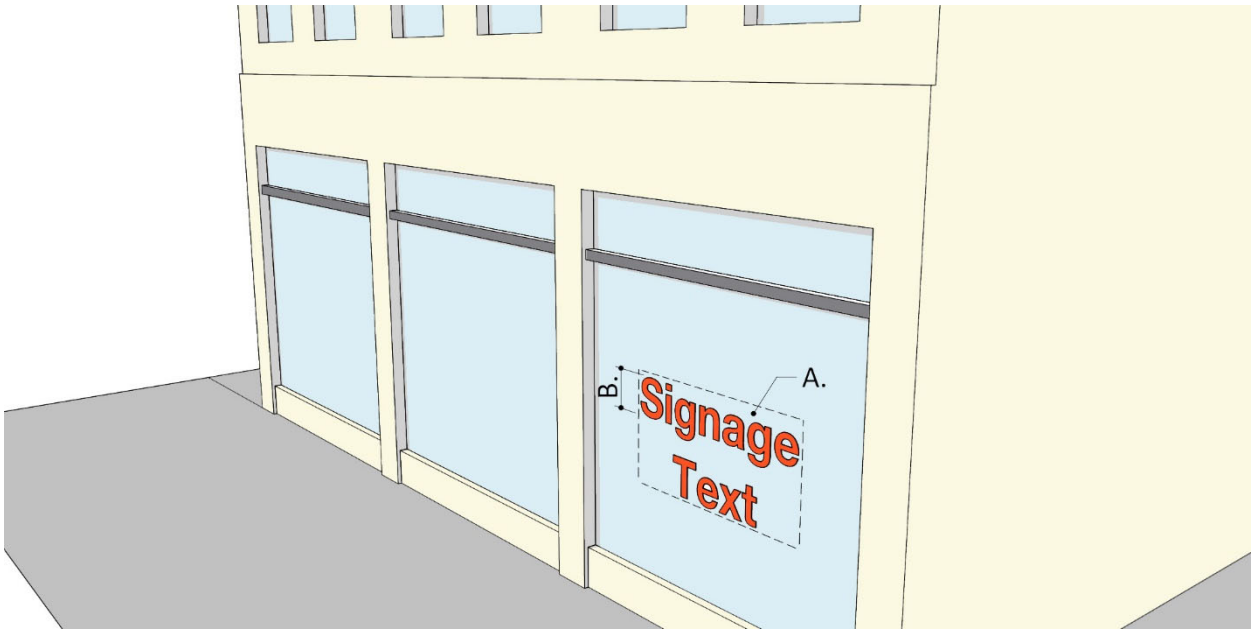
D. Only text or graphics painted directly on the wall or a graphic mural are permitted.




**Window Sign**

A. Signage area is 25% max. of shopfront window.

B. Copy height is 12” max.



14. Uses

a) Lot and building use is allowed according to **Figure 36-2-42. Downtown Development Code Allowed Uses** by use category and subcategory.

b) Multiple uses within a single lot or building are permitted in all districts.

c) Accessory uses are permitted as follows:

i) Accessory dwellings in GU are limited to housing related to the principal dwelling, rental housing, and home office uses, not exceeding 600 square feet per story.

ii) Home occupations are permitted in accordance with the provisions of **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #23. Home Occupation.

d) Manufacturing uses, other than cottage industries, are not permitted Downtown.

e) Conditional Uses are permitted pursuant to noted conditions.

**Figure 36-2-42. Downtown Development Code Allowed Uses**

| USE CATEGORY | GU | DT | MS | CONDITIONS |
|---|---|---|---|---|
| **RESIDENTIAL** | | | | |
| Single or Two-family Dwelling | A | NP | NP | |
| Family Child Care Home (1-6 occupants) | C | C | C | See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #37 Child Care Home (≤6) |
| Accessory Dwelling Unit | A | A | A | |
| Multi-family Dwelling | A | A | A | |
| Group Home (up to 16 occupants) | C | C | C | See **Sec. 36-3.B. Use Classifications and Use-Based Standards**, #13 Community Residence (Licensed for Persons with Disabilities) |
| **LODGING** | | | | |
| Lodging in Accessory Dwelling Unit | A | A | A | |
| Bed and Breakfast (up to 6 rooms) | A | NP | NP | |
| Inn (up to 12 rooms) | A | A | A | |
| Hotel | A | A | A | |
| **OFFICE** | | | | |
| Accessory Office | A | A | A | |
| Live-work Unit | A | A | A | |
| Office | C | A | A | Building area available for office use is limited to the first story. |
| Outpatient Clinic | NP | A | A | |
| Laboratory | NP | C | C | Medical, dental, or similar uses. Permitted only when entirely contained within an office building and used strictly for the purpose of serving the occupants of the office complex. There shall be no advertising signs or other visible displays indicating the use from the exterior of the building. |
| **RETAIL** | | | | |
| Open Market Space | A | A | A | |

| USE CATEGORY | GU | DT | MS | CONDITIONS |
|---|---|---|---|---|
| Retail | C | A | A | Building area available for retail use is limited to the first story. |
| Push Cart | A | A | A | |
| Kiosk | NP | A | A | |
| Gasoline Sales | C | C | NP | Permitted only when vehicle repair activities are not associated with the use. |
| Restaurant or Other Dining Establishment | C | A | A | Seating shall not exceed 40. |
| Outdoor Cooking | A | A | A | |
| Outdoor Dining | A | A | A | |
| Tavern or Bar | C | A | A | Seating shall not exceed 40. |
| Nightclub | NP | A | A | |
| **INSTITUTIONAL** | | | | |
| Live Theater or Movie Theater | NP | A | A | |
| Broadcasting Studios | NP | A | NP | |
| Gallery | C | A | A | Building area available for gallery use is limited to the first story. |
| Museum | C | A | A | Building area available for museum use is limited to the first story. |
| Libraries | A | A | A | |
| Legislative and Court Chambers | NP | A | A | |
| Conference Center | NP | A | A | |
| Terminal Waiting Areas | NP | A | A | |
| Funeral Homes | NP | A | NP | |
| Participatory Assembly | A | A | A | |
| Nursing Home with Medical Care | C | C | C | Must be located on a collector or higher designated roadway. |
| Classroom for Participatory Assembly Uses | A | A | A | |
| Child Classrooms & Daycare | A | A | A | |
| Accessory Daycare (fewer than 6 children) | A | A | A | |
| School, K-12 | A | A | A | |
| School, college or university | A | A | A | |
| School, commercial, trade or technical | C | A | A | Located on a minor arterial or higher designated roadway. |
| **AGRICULTURAL** | | | | |
| Animal (Pet) Care Facility | NP | A | A | |
| Animal (Pet) Day Care Facility | NP | A | A | |
| Chickens | C | NP | NP | Roosters are not permitted. |
| Garden Supply or Greenhouse | A | NP | NP | |

(A) Approved by Right (C) Conditional (NP) Not Permitted

15. Parking

a) Off-street Parking Location and Access.

i) Off-street parking shall be provided in accordance with achieving the Downtown Master Plan goals and policies and supporting the development proposal.

ii) Additional off-street parking is not required in the downtown transects. Unless otherwise specified, off-street parking design shall comply with **Sec. 38-2. Roads, Rights-of-Way, and Parking** as well as any state and federal regulations.

iii) When provided, parking may not be located within 30 feet of the primary frontage line and 20 feet of secondary frontage lines.

iv) Parking areas shall have well-delineated pedestrian access routes to the most direct entrance of the building they serve.

v) Parking may be fulfilled in the following locations:

a. Parking spaces provided within the lot.

b. Parking spaces provided along a parking lane (on-street) corresponding to lot frontages.

c. Parking spaces leased from a private or public parking facility within 500 feet of the lot.

d. Parking spaces managed by an established parking district.

b) Parking lots and structures visible from frontages require one of the following screening methods or a combination of methods:

i) Liner Buildings, optional at parking lots and required at parking structures. The ground floor frontages of parking structures shall be screened with Liner Buildings with the exception of ingress and egress points.

ii) A masonry wall no less than 4 feet in height.

iii) An evergreen hedge, or other landscape element to screen the view of parking, no less than 4 feet in height.

c) Driveways providing access to off-street parking are limited to 24 feet (2-way) in width in DT or MS and 10 feet (1-way) in width in GU.

d) Vehicular access to off-street parking is restricted as follows:

i) Lots with rear alley access must provide vehicular access from a rear alley.

ii) One curb-cut is permitted for each secondary frontage. Curb cuts shall comply with **Sec. 38-2. Roads, Rights-of-Way, and Parking**.

iii) Where secondary frontages are not available, one curb-cut is permitted at the primary frontage for lots with a minimum width of 80 feet.

e) Pedestrian access to off-street parking must be provided from frontages, according to the following:

i) A minimum of one ADA-compliant walkway must be provided between each lot frontage and off-street parking areas.

ii) Pedestrian access walkways must be a minimum of 6 feet in width in DT.

f) Shared Vehicular Parking Options.

i) The number of spaces provided may be reduced according to **Figure 36-2-43. Shared Parking**, completed as follows:

a. For each use, enter the minimum required spaces as specified in **Figure 36-2-43**, into the first column.

b. For each time of day, multiply the required spaces per use by the occupancy rate, and enter the sum of the resulting column in the bottom row.

c. The resulting reduced minimum required parking spaces is the highest value entered in the bottom row.

**Figure 36-2-43. Shared Parking**

| USES | REQ# | M—F 8AM—6PM | M—F 6PM—12AM | M—F 12AM—8AM | SAT & SUN 8AM—6PM | SAT & SUN 6PM—12AM | SAT & SUN 12AM—8AM |
|---|---|---|---|---|---|---|---|
| Residential | | 60% | 100% | 100% | 80% | 100% | 100% |
| Office | | 70% | 100% | 100% | 70% | 100% | 100% |
| Lodging | | 100% | 20% | 5% | 5% | 5% | 5% |
| Retail | | 90% | 80% | 5% | 100% | 70% | 5% |
| Restaurant | | 70% | 100% | 100% | 70% | 100% | 100% |
| Theater | | 40% | 80% | 10% | 80% | 100% | 10% |
| Entertainment | | 40% | 100% | 10% | 80% | 100% | 50% |
| Conference | | 100% | 100% | 5% | 100% | 100% | 5% |
| Civic | | 100% | 20% | 5% | 10% | 10% | 5% |
| Civic Religious | | 20% | 20% | 5% | 100% | 50% | 5% |
| Total Required | | | | | | | |

16. Landscaping

a) The spacing and placement of plants shall be adequate and appropriate for the typical size, shape and habit of the plant species at maturity.

b) Landscape quantities shall be determined by **Sec. 38-7. Landscaping**.

c) Proposed trees and understory trees shall be centered horizontally and minimally:

i) Three (3) feet from walkways, curbing, and other impervious pavements;

ii) Five (5) feet from street lights, underground utilities, utility meters and service lines, fences, walls, and other ground level obstructions;

iii) Six (6) feet from porch eaves, awnings, and similar overhead obstructions associated with the ground level of buildings;

iv) Eight (8) feet from balconies, verandas, building eaves and cornices, and similar overhead obstructions associated with the upper stories of buildings.

d) Ground vegetation with spines, thorns or needles that may present hazards to pedestrians, bicyclists or vehicles are prohibited within two (2) feet of the sidewalk or street.

e) Bare and exposed ground shall be covered with live plant materials and/or mulch, including gravel mulch.

f) Artificial plants or artificial turf are prohibited.

g) Specific to DT and MS.

i) Landscape islands in interior parking lots shall only occur at the end of drive aisles. Islands should be the minimum size for healthy growth for the specific species of tree.

ii) Porous paving materials and other green infrastructure methods may be used in order to increase stormwater infiltration on site.

h) Any tree species and cultivar applicable for planting in the Downtown Las Cruces microclimate may be considered for planting within Downtown public squares, plazas, and private parcels, with the exception of those identified in **Figure 36-2-44. Prohibited Plants**.

**Figure 36-2-44. Prohibited Plants**

| BOTANICAL NAME | COMMON NAME |
|---|---|
| Pennisetum setaceum | Crimson fountaingrass |
| Tamarix spp. | Saltcedar |
| x Chitalpa | Chitalpa |
| Elaeagnus angustifolia | Russian olive |
| Brassica tournefortii | Sahara mustard |
| Peganum harmala | African rue |
| Arundo donax | Giant cane |
| Saccharum ravennae | Ravennagrass |
| Ulmus pumila | Siberian elm |
| Ailanthus altissima | Tree of heaven |

17. Streetscape

The primary use of thoroughfares is to provide access to private lots and public civic spaces. In accordance with the intent of this Section, streetscape improvements shall be designed to support several modes of transportation: public transportation, motor vehicles, and non-motorized vehicles such as bicycles and pedestrians.

a) Alley easements include one (1) bi-directional vehicular lane, within a total width alley of not less than 20 feet. The entire right-of-way should be paved and remain with clear access.

b) At the time of, and within, new or infill development trees shall be planted at an average spacing of no less than 40 feet on center within the front setback of the parcel being developed unless the front setback is less than 8 feet pursuant to **Figure 36-2-45. Public Frontage Type**.

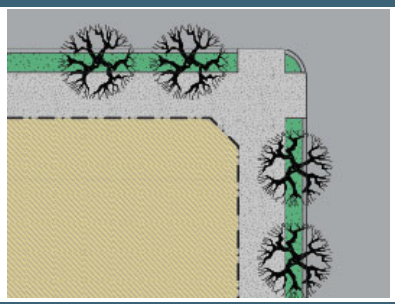
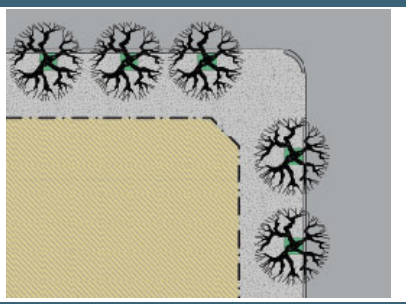
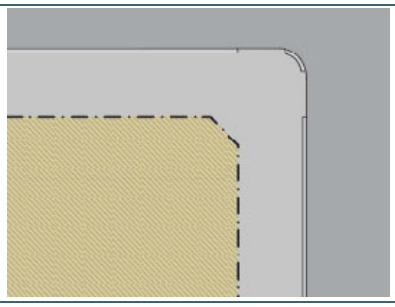
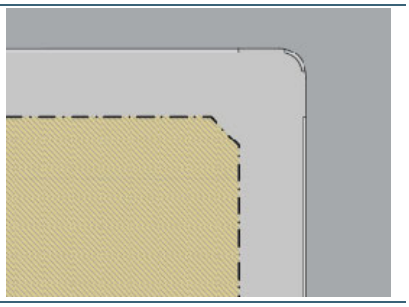
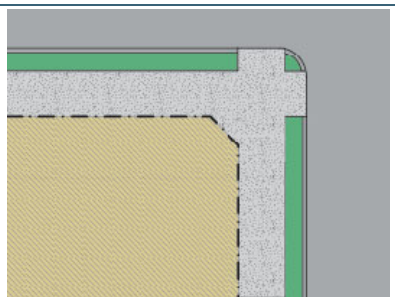
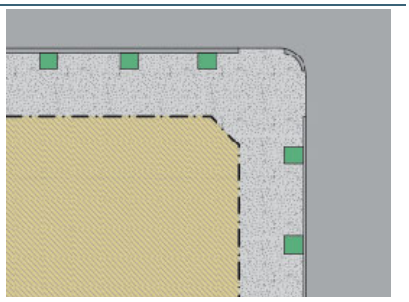
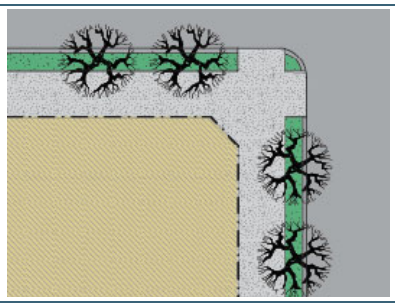
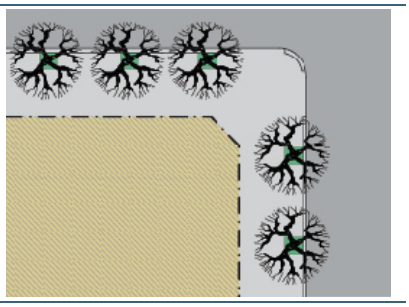
c) Streetscape improvements may be made pursuant to **Figure 36-2-45**.

i) At commercial frontages the spacing of trees may be irregular to avoid visually obscuring shopfronts.

ii) At gallery frontages, public planting is not required and public lighting may be provided within the gallery.

iii) Tree spacing may be adjusted up to 20 percent by administrative waiver to accommodate specific site conditions.

**Figure 36-2-45. Public Frontage Type**

| PUBLIC FRONTAGE TYPE | A | B |
|---|---|---|
| Assembly: The principal variance are the type and dimension of curbs, walkways, planters, and landscape. |  |  |
| Total Width | 10-20’ | 16-20’ |
| Curbing: The detailing of the edge of the vehicular way, incorporating drainage. |  |  |
| Type Cuts | Raised Curb<br>Ramp at 1:12 slope | Raised Curb<br>Ramp at 1:12 slope |
| Walkway: The portion of the thoroughfare dedicated exclusively to pedestrian activity |  |  |
| Type Width | Sidewalk<br>10-15’ | Sidewalk<br>12-16’ |
| Planter: The portion of the thoroughfare accommodating street trees and other landscape. |  |  |
| Arrangement<br>Planter Type<br>Planter Width | Opportunistic<br>Continuous<br>5’ | Opportunistic<br>Tree Well<br>4’x9’ |

18. Sidewalk Displays on Public Property.

a) *Sidewalk display* means the outdoor display of merchandise for sale to the public during regular business hours by any person, persons or organization when such merchandise is displayed on a portion of, or entirely on a public sidewalk or public place not designed for vehicular traffic.

i) All agents, employees, or representatives conducting a sidewalk display on Main Street between the roundabout and Bowman in downtown Las Cruces, shall comply with the following provisions:

a. All sidewalk displays shall only be conducted during regular business hours;

b. All displays shall be installed and removed by the business or property owner daily;

c. No booths, tables, or display merchandise shall obstruct ADA access, vehicular traffic, business entrances, or designated fire access points;

d. Sidewalk displays shall be limited to 100 square feet in total size;

e. Sidewalk displays shall only be conducted immediately in front of the permanent business located immediately adjacent to Main Street;

f. No person shall leave merchandise, booths, tables, or cases on the site of the display after the conclusion of regular business hours.

g. No person shall display merchandise of a type that is not originally sold by the permanent business located immediately adjacent to Main Street.

h. Sidewalk displays shall not include vending machines, food or beverage, outdoor lighting, or provide entertainment.

i. All debris and trash created by the sidewalk displays shall be immediately cleaned from the public property.

j. No sidewalk displays shall be allowed after the entity with which it is associated is not open to the public.

k. No permanent structure may be affixed to the sidewalk or any building. The business or property owner shall be responsible for any damage caused to the sidewalk or public property by the display;

l. The business or property owner assumes all risks with setting up a sidewalk display and shall not hold the City responsible for any accidents or loss in the installation, removal, or operation of the displays.

## Sec. 36-3. Permitted Uses and Use-Based Standards

### A. Permitted Uses

1. Permitted Use Chart

   a) The Permitted Use Chart is contained in the tables on the following pages.

   b) Land and buildings in each of the zoning districts may be used for any of the specified uses in the Permitted Use Chart. No land shall be used and no building or structure shall be erected, altered, or converted for any use other than those specified as a permitted use in the district in which the property is located.

   c) Use-Based Standards apply to uses as indicated in **Figure 36-3-2. Permitted Use Chart**. The associated standards are located in **Sec. 36-3.B. Use Classifications and Use-Based Standards**.

   d) The chart is organized by the following generalized land use groupings:

| Residential Uses | Accessory or Temporary Uses | Public and Institutional Uses | Retail, Service, and Office Uses | Commercial, Auto, Industrial, and Agricultural Uses |
|---|---|---|---|---|
| Household Living<br>Congregate Living<br>Residential Care | Accessory Uses<br>Temporary Uses | Child Care<br>Schools<br>Public/Semi-Public | Professional Office<br>Medical<br>Lodging<br>Recreational and Entertainment<br>Retail Shops and Services<br>Food and Beverage | Commercial<br>Cannabis-Related<br>Automotive and Transportation<br>Light Industrial<br>Heavy Industrial<br>Animals and Agriculture |

2. Classification of New and Unlisted Uses

   It is recognized that new types of land use will develop and forms of land use not anticipated may seek to locate in the City. In order to provide for such changes and contingencies, a determination as to the appropriate classification of any new or unlisted use shall be made as follows:

   a) The new or unlisted use will be referred to the Community Development Director who will make a determination as to the appropriate classification of the new or unlisted use based on findings of fact in relation to the nature of the use and whether it involves dwelling activity, sales, processing, type of product, storage and amount and nature thereof, enclosed or open storage, anticipated employment, transportation requirements, amount of noise, odor, fumes, light, dust, toxic material and vibration likely to be generated and the general requirements for public utilities.

   b) The Community Development Director may seek input from other sources, such as professional urban planning publications, or economic development professionals or others familiar with the proposed use.

   c) The Community Development Director shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various districts and determine the zoning district or districts within which such uses shall be permitted.

   d) In such cases that any party may be aggrieved by the decision of the Community Development Director, the matter may be appealed in accordance with **Sec. 34-3.F. Appeals**.

3. Multiple Principal Uses within a Single Site

   When multiple principal uses are included on a single site, each individual use must be permitted on that site. For example, if a Retail Store includes a Restaurant, both uses must be allowed; or if a Funeral Home includes a Crematorium, both uses must be permitted.

a) Exception: Customarily incidental uses (as determined by the Community Development Director) are included in the primary use. For example, if a Hospital includes a gift shop, a Retail Store use is not required; or if a Warehouse or Distribution Center includes an office area, a Professional Office use is not required.

4. Parking Requirements

Minimum vehicle and bicycle parking requirements are included in **Figure 36-3-2. Permitted Use Chart**. Off-street parking is not required in the Urban Character Area; MXCO, Mixed Use Corridor Overlay District; TCO, Town Center Overlay District; NCO, Neighborhood Center Overlay District; or the DDC, Downtown Development Code area. See **Sec. 38-2.N. Off-Street Parking** (specifically **Sec. 38-2.N.4. Minimum Off-Street Vehicular Parking Requirements** and **Sec. 38-2.N.5. Bicycle Parking Standards**) for more information regarding parking requirements.

**Figure 36-3-1. Legend for the Permitted Use Chart**

| Symbol | Meaning |
|---|---|
| ● | Use is permitted in district indicated |
| ○ | Use is permitted in district upon approval of a Special Use Permit; see **Sec. 36-5.C. Special Use Permits (SUPs)** |
| | Use is prohibited in district indicated |
| * | Use-based standards apply; see **Sec. 36-3.B. Use Classifications and Use-Based Standards** |

**Figure 36-3-2. Permitted Use Chart**

| # - See Sec. 36-3.B. Use Classifications and Use-Based Standards | ● = Permitted<br>○ = SUP<br>* = Use-Based Standards<br><br>Uses | NH-1, Neighborhood 1 District (Rural, Suburban, Urban) | NH-2, Neighborhood 2 District (Rural, Suburban, Urban) | NH-3, Neighborhood 3 District (Rural, Suburban, Urban) | CR, Commercial/Retail District (Rural, Suburban, Urban) | LI, Light Industrial District (Rural, Suburban, Urban) | HI, Heavy Industrial District (Rural, Suburban, Urban) | OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban) | OS-2, Open Space-Drainage District (Rural, Suburban, Urban) | Min. Vehicle Parking | Min. Bicycle Parking |
|---|---|---|---|---|---|---|---|---|---|---|---|
| **Residential Uses** | | | | | | | | | | | |
| **Household Living** (Note: See **Sec. 36-2.B. Zoning DistrictsError! Reference source not found.** for maximum dwelling units per acre in each district) | | | | | | | | | | | |
| 1 | Duplex, Triplex, or Quadplex | ● | ● | ● | ○ | | | | | 1 : dwelling unit | N/A |
| 2 | Live/Work* | ● | ● | ● | ○ | | | | | 1 : dwelling unit + parking required for business | Only parking required for business |
| 3 | Manufactured Home | ● | ● | ● | | | | | | 2 : dwelling unit | N/A |
| 4 | Manufactured / Mobile Home Park (MHP)* | ○ | ○ | ○ | | | | | | 2 : dwelling unit | N/A |
| 5 | Mixed-Use* | ○ | ● | ● | ○ | | | | | Per use multiplied by 0.5 | Per use |
| 6 | Mobile Home* | ● | ● | ● | | | | | | 2: dwelling unit | N/A |

| # - See Sec. 36-3.B. Use Classifications and Use-Based Standards | ● = Permitted<br>○ = SUP<br>* = Use-Based Standards<br><br>Uses | NH-1, Neighborhood 1 District (Rural, Suburban, Urban) | NH-2, Neighborhood 2 District (Rural, Suburban, Urban) | NH-3, Neighborhood 3 District (Rural, Suburban, Urban) | CR, Commercial/Retail District (Rural, Suburban, Urban) | LI, Light Industrial District (Rural, Suburban, Urban) | HI, Heavy Industrial District (Rural, Suburban, Urban) | OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban) | OS-2, Open Space-Drainage District (Rural, Suburban, Urban) | Min. Vehicle Parking | Min. Bicycle Parking |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 7 | Multi-Family Dwelling* | ● | ● | ● | ○ | | | | | 1 : dwelling unit | 1 : 4 dwelling units |
| 8 | Single-Family Home | ● | ● | ● | | | | | | 2 : dwelling unit | N/A |
| 9 | Townhouse* | ● | ● | ● | ○ | | | | | 2 : dwelling unit | 1 : 2 bedrooms |
| **Congregate Living** | | | | | | | | | | | |
| 10 | Boarding House or Hostel | ○ | ● | ● | | | | | | 1 : bedroom + 1 : employee | 1 : 2 bedrooms |
| 11 | Fraternity or Sorority House | ○ | ● | ● | | | | | | 0.5 : bedroom | 1 : 2 bedrooms |
| **Residential Care** | | | | | | | | | | | |
| 12 | Assisted Living | ○ | ● | ● | | | | | | 1 : 4 beds + 1 : 2 employees on maximum shift | 1 : 5 employees on maximum shift |
| 13 | Community Residence (Licensed for Persons with Disabilities) | ● | ● | ● | | | | | | 1 : 4 beds + 1 : 2 employees on maximum shift | 1 : 5 employees on maximum shift |
| 14 | Community Residence (Other) | ○ | ● | ● | | | | | | 1 : 2 employees on maximum shift | 1 : 5 employees on maximum shift |
| 15 | Halfway House | ○ | ○ | ○ | | | | | | 1 : 2 employees on maximum shift | 1 : 5 employees on maximum shift |
| 16 | Independent Senior Living | ○ | ● | ● | | | | | | 1 : dwelling unit | 1 : dwelling unit |
| 17 | Nursing Home | ○ | ○ | ● | ● | | | | | 1 : 4 beds + 1 : 2 employees | 1 : 20 beds + 1 : 5 employees on maximum shift |
| 18 | Sober Living House | ● | ● | ● | | | | | | 1 : 2 employees on maximum shift | 1 : 5 employees on maximum shift |
| **Accessory or Temporary Uses** | | | | | | | | | | | |
| **Accessory Uses** | | | | | | | | | | | |
| 19 | Accessory Dwelling* | ● | ● | ● | | | | | | N/A | N/A |
| 20 | Accessory Structures* | ● | ● | ● | | | | | | N/A | N/A |
| 21 | Animal Raising (Accessory)* | ● | ● | ● | ● | ● | ● | ○ | | N/A | N/A |

| # - See Sec. 36-3.B. Use Classifications and Use-Based Standards | ● = Permitted<br>○ = SUP<br>* = Use-Based Standards<br><br>Uses | NH-1, Neighborhood 1 District (Rural, Suburban, Urban) | NH-2, Neighborhood 2 District (Rural, Suburban, Urban) | NH-3, Neighborhood 3 District (Rural, Suburban, Urban) | CR, Commercial/Retail District (Rural, Suburban, Urban) | LI, Light Industrial District (Rural, Suburban, Urban) | HI, Heavy Industrial District (Rural, Suburban, Urban) | OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban) | OS-2, Open Space-Drainage District (Rural, Suburban, Urban) | Min. Vehicle Parking | Min. Bicycle Parking |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 22 | Drive-Thru* | | ○ | ● | ● | ● | | | | N/A | N/A |
| 23 | Home Occupation* | ● | ● | ● | | | | | | N/A | N/A |
| 24 | Outdoor Display (Permanent) | | | ●~~○~~ | ● | ● | ● | | | 1 : 1,000 sqft of display area | N/A |
| 25 | Outdoor Storage* | | | | ○ | ● | ● | | | 1 : employee on maximum shift or 1 : 10,000 sqft of storage area | N/A |
| 26 | Pools and Recreational Courts | ● | ● | ● | ● | | | | | 1 : 250 sqft of accompanying floor area where patrons circulate, sit, or congregate or 1 : 750 sqft of all gross surfaces | 1 : 1,250 sqft of accompanying floor area where patrons circulate, sit, or congregate or 1 : 3,750 sqft of all gross surfaces |
| 27 | Solar Energy System (Accessory)* | ● | ● | ● | ● | ● | ● | | | N/A | N/A |
| 28 | Walk-Up Window* | ● | ● | ● | ● | | | | | N/A | N/A |
| 29 | Wind Energy System (Accessory)* | ● | ● | ● | ● | ● | ● | | | N/A | N/A |
| | **Temporary Uses** | | | | | | | | | | |
| 30 | Concrete Batch Plant (Temporary) | ○ | ○ | ○ | ● | ● | ● | | | 1 : employee on maximum shift | 1 : 5 employees on maximum shift |
| 31 | Construction Building (Temporary) | ● | ● | ● | ● | ● | ● | | | 1 : 400 sqft | 1 : 5 employees on maximum shift |
| 32 | Construction Yard* (Temporary) | ●~~○~~ | ●~~○~~ | ●~~○~~ | ● | ● | ● | | | 1 : employee on maximum shift | 1 : 5 employees on maximum shift |
| 33 | Outdoor Display (Temporary)* | ● | ● | ● | ● | ● | ● | | | 1 : 1,000 sqft of display area | 1 : 5 employees or 1 : 2,000 sqft |
| 34 | Real Estate Office (Temporary)* | ● | ● | ● | ● | ● | ● | | | 1 : 400 sqft | 1 : 5 employees |
| 35 | Seasonal/Temporary Sales or Use* | ● | ● | ● | ● | ● | ● | | | 1 : 1,000 sqft of sales area + 1 : employee at maximum shift | 1 : 5 employees or 1 : 2,000 sqft |

| # - See Sec. 36-3.B. Use Classifications and Use-Based Standards | ● = Permitted<br>○ = SUP<br>* = Use-Based Standards<br><br>Uses | NH-1, Neighborhood 1 District (Rural, Suburban, Urban) | NH-2, Neighborhood 2 District (Rural, Suburban, Urban) | NH-3, Neighborhood 3 District (Rural, Suburban, Urban) | CR, Commercial/Retail District (Rural, Suburban, Urban) | LI, Light Industrial District (Rural, Suburban, Urban) | HI, Heavy Industrial District (Rural, Suburban, Urban) | OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban) | OS-2, Open Space-Drainage District (Rural, Suburban, Urban) | Min. Vehicle Parking | Min. Bicycle Parking |
|---|---|---|---|---|---|---|---|---|---|---|---|
| **Public and Institutional Uses** | | | | | | | | | | | |
| **Child Care** | | | | | | | | | | | |
| 36 | Child Care Center* | ○ | ○ | ● | ● | | | | | 2 spaces + 1: 10 children | 1 : 30 children |
| 37 | Child Care Home (≤6)* | ● | ● | ● | | | | | | N/A | N/A |
| 38 | Group Child Care Home (7-12)* | ○ | ● | ● | | | | | | 1 additional space | 1 additional space |
| **Schools** | | | | | | | | | | | |
| 39 | School (K-8)* | ● | ● | ● | ● | | | | | 2 : classroom | 10 : classroom |
| 40 | School (9-12)* | ● | ● | ● | ● | | | | | 4: classroom + 1: 250 sqft in assembly areas | 6 : classroom |
| 41 | School (College or University)* | ○ | ● | ● | ● | | | | | 1 : 600 sqft of indoor area | 1: 1,500 sqft of indoor area |
| 42 | School (Commercial, Trade, or Technical) | ○● | ● | ● | ● | ● | | | | 1 : 500 sqft | 1 : 1,500 sqft |
| **Public/Semi-Public** | | | | | | | | | | | |
| 43 | Cemetery or Columbarium* | | | | ● | | | | | 1: 500 sqft of assembly areas | 1: 1,500 sqft of assembly area |
| 44 | City Facility or Building | ● | ● | ● | ● | ● | ● | ● | | As specified for use | As specified for use |
| 45 | Community Building or Banquet Center | ○ | ● | ● | ● | | | | | 1 : 250 sqft | 1 : 1,000 sqft of assembly area |
| 46 | Community Garden | ● | ● | ● | ● | ● | ● | ● | | 1 : 5,000 sqft | 1 : 10,000 sqft |
| 47 | Convention Center or Exhibition Hall | | | | ● | | | | | 1 : 5 maximum occupancy | 1 : 75 maximum occupancy |
| 48 | Correctional Facility | | | | | ● | ● | | | 1 : 1,000 sqft + 1 : employee on maximum shift | 1 : 20 employees on maximum shift |
| 49 | Landfill | | | | | | ● | | | 1 : 400 sqft of office | N/A |
| 50 | Library or Museum | ● | ● | ● | ● | | | | | 1 : 600 sqft | 1 : 1,000 sqft |

| # - See Sec. 36-3.B. Use Classifications and Use-Based Standards | ● = Permitted<br>○ = SUP<br>* = Use-Based Standards<br><br>Uses | NH-1, Neighborhood 1 District (Rural, Suburban, Urban) | NH-2, Neighborhood 2 District (Rural, Suburban, Urban) | NH-3, Neighborhood 3 District (Rural, Suburban, Urban) | CR, Commercial/Retail District (Rural, Suburban, Urban) | LI, Light Industrial District (Rural, Suburban, Urban) | HI, Heavy Industrial District (Rural, Suburban, Urban) | OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban) | OS-2, Open Space-Drainage District (Rural, Suburban, Urban) | Min. Vehicle Parking | Min. Bicycle Parking |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 51 | Place of Worship | ● | ● | ● | ● | | | | | 1 : 200 sqft of assembly area | 1: 1,000 sqft of assembly area |
| 52 | Public Park* | ● | ● | ● | ● | | | ● | | Based on facilities provided | Based on facilities provided |
| 53 | Public Utilities (Major)* | ● | ● | ● | ● | | | | ● | N/A | N/A |
| 54 | Public Utilities (Minor)* | ● | ● | ● | ● | | | | ● | N/A | N/A |
| 55 | Recycling Drop-Off Point | | | | ● | ● | ● | | | 1 : employee on maximum shift | 1: 5 employees on maximum shift |
| 56 | Waste or Recycling Processing Facility | | | | | ○ | ● | | | 1 : 400 sqft of office or 1 : employee on maximum shift | 1: 20 employees on maximum shift |
| **Retail, Service, and Office Uses** | | | | | | | | | | | |
| **Professional Office** | | | | | | | | | | | |
| 57 | Professional Office (Local)* | ● | ●~~○~~ | ● | ● | ● | ○ | | | 1 : 450 sqft | 1 : 8,000 sqft |
| 58 | Professional Office (Regional) | | | ● | ● | ● | ○ | | | 1 : 450 sqft | 1 : 8,000 sqft |
| **Medical** | | | | | | | | | | | |
| 59 | Emergency Room (Standalone)* | | | ● | ● | | | | | 1 : 3 beds | 1 : 20 employees on maximum shift |
| 60 | Hospital* | | | ○ | ● | | | | | 1 : 3 beds or 3 : 1,000 sqft | 1 : 20 employees on maximum shift |
| 61 | Medical Clinic or Office | | ○ | ● | ● | | | | | 1 : 450 sqft | 1 : 2,000 sqft |
| 62 | Medical or Research Laboratory | | | ○ | ● | | | | | 1 : 1,000 sqft | 1 : 20 employees on maximum shift |
| 63 | Urgent Care | | ○ | ● | ● | | | | | 1 : 400 sqft or 2 : exam room | 1 : 2,500 sqft |
| **Lodging** | | | | | | | | | | | |
| 64 | Bed and Breakfast* | ○ | ● | ● | ● | | | | | 0.5 : bedroom | 1 : 5 employees |

| # - See Sec. 36-3.B. Use Classifications and Use-Based Standards | ● = Permitted<br>○ = SUP<br>* = Use-Based Standards<br><br>Uses | NH-1, Neighborhood 1 District (Rural, Suburban, Urban) | NH-2, Neighborhood 2 District (Rural, Suburban, Urban) | NH-3, Neighborhood 3 District (Rural, Suburban, Urban) | CR, Commercial/Retail District (Rural, Suburban, Urban) | LI, Light Industrial District (Rural, Suburban, Urban) | HI, Heavy Industrial District (Rural, Suburban, Urban) | OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban) | OS-2, Open Space-Drainage District (Rural, Suburban, Urban) | Min. Vehicle Parking | Min. Bicycle Parking |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 65 | Campground* | | | | ● | ● | | ● | | 1 : camp site + 1: 400 sqft office space | 1 : 5 employees |
| 66 | Hotel or Motel | | ○ | ● | ● | ○ | | | | 0.75 : room + 1 : 800 sqft of other uses | 1 : 5 employees on maximum shift + 1 : 20 rooms |
| 67 | Recreational Vehicle Park* | | | | ● | ● | | | | 1 : RV space + 1 : 2 employees | 1 : 5 employees |
| | **Recreational and Entertainment** | | | | | | | | | | |
| 68 | Botanical Garden | ● | ● | | | | | ● | | Parking study required | 1 : 20 auto spaces |
| 69 | Golf Course* | ● | ● | ● | ● | ● | | ● | | 30 : 9 holes | 1 : 9 holes |
| 70 | Indoor Entertainment | | ○ | ● | ● | ● | ● | | | 1 : 3 persons maximum capacity | 1 : 20 persons maximum capacity |
| 71 | Outdoor Entertainment* | | ○ | ● | ● | ● | ● | | | 3 : 1,000 sqft | 1 : 2,500 sqft |
| | **Retail Shops and Services** | | | | | | | | | | |
| 72 | Adult Business* | | | | ○ | ○ | | | | 1 : 350 sqft | 1 : 6,000 sqft |
| 73 | Art Studio or Instruction | ○ | ● | ● | ● | | | | | 1 : 450 sqft or 1 : student | 1 : 2,500 or 1 : 5 students |
| 74 | Bank or Financial Institution | | ● | ● | ● | | | | | 1 : 450 sqft | 1 : 8,000 sqft |
| 75 | Flea Market | | | ● | ● | | | | | 1 : 400 sqft of vendor area + 1 : food vendor | 1 : 20 auto spaces |
| 76 | Gas Station* | ○ | ○ | ● | ● | ● | ○ | | | 1 : 300 sqft | 1 : 2,000 sqft |
| 77 | Grocery (Local) | ● | ● | ● | ● | | | | | 1 : 350 sqft | 1 : 6,000 sqft |
| 78 | Grocery (Regional)* | | | ● | ● | ● | | | | 1 : 350 sqft | 1 : 6,000 sqft |
| 79 | Liquor or Package Store* | | | | ● | ● | | | | 1 : 400 sqft | 1 : 800 sqft |
| 80 | Payday Loans, Check Cashing, or Bail Bonds | | ○ | ○ | ● | | | | | 1 : 450 sqft | 1 : 8,000 sqft |
| 81 | Pawn Shop | | | ● | ● | ● | | | | 1 : 400 sqft | 1 : 3,000 sqft |
| 82 | Personal Services | | ● | ● | ● | | | | | 1 : 450 sqft | 1 : 8,000 sqft |

| # - See Sec. 36-3.B. Use Classifications and Use-Based Standards | ● = Permitted<br>○ = SUP<br>* = Use-Based Standards<br><br>Uses | NH-1, Neighborhood 1 District (Rural, Suburban, Urban) | NH-2, Neighborhood 2 District (Rural, Suburban, Urban) | NH-3, Neighborhood 3 District (Rural, Suburban, Urban) | CR, Commercial/Retail District (Rural, Suburban, Urban) | LI, Light Industrial District (Rural, Suburban, Urban) | HI, Heavy Industrial District (Rural, Suburban, Urban) | OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban) | OS-2, Open Space-Drainage District (Rural, Suburban, Urban) | Min. Vehicle Parking | Min. Bicycle Parking |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 83 | Retail Store (Local)* | ○ | ● | ● | ● | ○ | ○ | | | 1 : 400 sqft | 1 : 3,000 sqft |
| 84 | Retail Store (Regional)* | | | ● | ● | ○ | ○ | | | 1 : 450 sqft | 1 : 4,000 sqft |
| 85 | Retail Store (Sundry)* | ○ | ● | ● | ● | | | | | 1 : 400 sqft | 1 : 3,000 sqft |
| 86 | Shopping Center* | | ● | ● | ● | ○ | | | | 1 : 450 sqft | 1 : 4,000 sqft |
| | **Food and Beverage** | | | | | | | | | | |
| 87 | Bar* | | | ● | ● | ● | | | | 1 : 500 sqft | 1 : 1,000 sqft |
| 88 | Cafe* | ● | ● | ● | ● | | | | | 1 : 300 sqft | 1 : 1,000 sqft |
| 89 | Food Truck Park* | | ○ | ● | ● | ● | | | | 2 : 1,000 sqft of area where patrons eat, queue, or congregate | 1 : 10 auto spaces |
| 90 | Private Club or Lodge | | | ● | ● | ● | | | | 1 : 500 sqft | 1 : 1,000 sqft |
| 91 | Restaurant | | ○ | ● | ● | ● | ○ | | | 1 : 300 sqft | 1 : 1,000 sqft |
| 92 | Tap Room or Tasting Room* | | | ● | ● | ● | | | | 1 : 500 sqft (tasting room only) | 1 : 2,000 sqft (tasting room only) |
| | **Commercial, Auto, Industrial, and Agricultural Uses** | | | | | | | | | | |
| | **Commercial** | | | | | | | | | | |
| 93 | Catering or Commercial Off-Site Kitchen | | | ● | ● | ● | | | | 1 : 500 sqft | 1 : 5 employees on maximum shift |
| 94 | Contractors Yard or Building Material Sales* | | | | ● | ● | ● | | | 1 : 1,000 sqft office space | 1 : 5 employees on maximum shift |
| 95 | Crematorium | | | | | ● | ● | | | 1 : 800 sqft | 1 : 5 employees on maximum shift |
| 96 | Dispatch Service | | | ● | ● | ● | | | | 1 : 400 sqft | 1 : 5 employees on maximum shift |
| 97 | Dry Cleaning Plant | | | | ● | ● | | | | 1 : 1,000 sqft | 1 : 5 employees on maximum shift |
| 98 | Equipment Rental, Sales, or Repairs | | | ● | ● | ● | ● | | | 1 : 400 sqft office space | 1 : 5 employees on maximum shift |

| # - See Sec. 36-3.B. Use Classifications and Use-Based Standards | ● = Permitted<br>○ = SUP<br>* = Use-Based Standards<br><br>Uses | NH-1, Neighborhood 1 District (Rural, Suburban, Urban) | NH-2, Neighborhood 2 District (Rural, Suburban, Urban) | NH-3, Neighborhood 3 District (Rural, Suburban, Urban) | CR, Commercial/Retail District (Rural, Suburban, Urban) | LI, Light Industrial District (Rural, Suburban, Urban) | HI, Heavy Industrial District (Rural, Suburban, Urban) | OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban) | OS-2, Open Space-Drainage District (Rural, Suburban, Urban) | Min. Vehicle Parking | Min. Bicycle Parking |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 99 | Film Staging or Production Studios | | | | ● | ● | ● | | | 1 : 500 sqft | 1 : 20 employees on maximum shift |
| 100 | Funeral Home | | | ● | ● | ● | | | | 1 : 500 sqft | 1 : 2,000 sqft |
| 101 | Industrial Printing or Distribution | | | | ● | ● | | | | 1 : 1,000 sqft | 1 : 20 employees on maximum shift |
| 102 | Manufactured Housing or Building Sales | | | | ● | ● | ● | | | 1 : 450 sqft office space | 1 : 8,000 sqft |
| 103 | Postal or Printing Services | | ○ | ● | ● | ● | ○ | | | 1 : 1,000 sqft. | 1 : 5 employees on maximum shift |
| 104 | Repair Shop | | ● | ● | ● | ● | | | | 1 : 500 sqft or 1 : employee on maximum shift | 1 : 5 employees on maximum shift |
| 105 | Self-Storage Warehouse | | | | ● | ● | ● | | | None if units have direct vehicular access; if not, 1 : 4,000 sqft | 1 : 5 employees on maximum shift |
| 106 | Wireless Communication Facilities* | ○ | ● | ● | ● | ● | ● | ● | | 1 space | N/A |
| **Cannabis-Related** | | | | | | | | | | | |
| 107 | Cannabis Dispensary* | | | ○ | ● | | | | | 1 : 400 sqft | 1 : 3,000 sqft |
| 108 | Cannabis Production | | | ○ | ● | ● | ● | | | 1 : employee on maximum shift | 1 : 5 employees on maximum shift |
| 109 | Integrated Cannabis Business* | | | ○ | ● | ● | | | | 1 : 1,000 sqft | 1 : 20 employees on maximum shift |
| **Automotive and Transportation** | | | | | | | | | | | |
| 110 | Auto Sales or Rental* | | | ● | ● | ● | | | | 1 : 500 sqft showroom + office | 1 : 5 employees on maximum shift |
| 111 | Auto Repair and Services (Major)* | | | | ● | ● | | | | 5 : service bay + 1 : employee on maximum shift | 1 : 5 employees on maximum shift |
| 112 | Auto Repair and Services (Minor)* | | | ● | ● | ● | | | | 3 : service bay + 1 : employee on maximum shift | 1 : 5 employees on maximum shift |

| # - See Sec. 36-3.B. Use Classifications and Use-Based Standards | ● = Permitted<br>○ = SUP<br>* = Use-Based Standards<br><br>Uses | NH-1, Neighborhood 1 District (Rural, Suburban, Urban) | NH-2, Neighborhood 2 District (Rural, Suburban, Urban) | NH-3, Neighborhood 3 District (Rural, Suburban, Urban) | CR, Commercial/Retail District (Rural, Suburban, Urban) | LI, Light Industrial District (Rural, Suburban, Urban) | HI, Heavy Industrial District (Rural, Suburban, Urban) | OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban) | OS-2, Open Space-Drainage District (Rural, Suburban, Urban) | Min. Vehicle Parking | Min. Bicycle Parking |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 113 | Car Wash* | | ○ | ● | ● | ● | | | | 2 : service lane | 1 : 5 employees on maximum shift |
| 114 | Commercial Parking Lot or Garage* | | ○ | ● | ● | ● | | | | N/A | 1 : 20 auto spaces |
| 115 | Heliport/Helistop* | | | | ○ | ○ | ○ | | | N/A if accessory use; 2 spaces if primary use | N/A |
| 116 | Passenger Transportation Terminal* | | | | ● | ● | | | | 1 : 300 sqft | 1 : 500 sqft |
| 117 | Salvage or Wrecking Yard* | | | | | ○ | ● | | | 1 : 1,500 sqft of yard area + 1 : 400 sqft of office space | 1 : 5 employees on maximum shift |
| 118 | Semi-Truck Wash | | | | | ● | ● | | | 2 : service lane | N/A |
| 119 | Truck, Trailer, Boat, and RV Sales or Rental | | | | ● | ● | | | | 1 : 500 sqft showroom + office | 1 : 5 employees on maximum shift |
| **Light Industrial** | | | | | | | | | | | |
| 120 | Animal Processing (Slaughterhouse) | | | | | ● | ● | | | 1 : 1,000 sqft | 1 : 20 employees on maximum shift |
| 121 | Animal Processing (Taxidermy) | | | | ● | ● | ● | | | 1 : 1,000 sqft | 1 : 5 employees on maximum shift |
| 122 | Artisan Manufacturing* | ○ | ○ | ● | ● | ● | ● | | | 1 : 1,000 sqft | 1 : 20 employees on maximum shift |
| 123 | Data Center* | | | | ○ | ● | ● | | | 1 : 1,000 sqft | 1 : 20 employees on maximum shift |
| 124 | Hazardous Chemical Manufacturing or Storage | | | | | ● | ● | | | 1 : 1,000 sqft | 1 : 20 employees on maximum shift |
| 125 | Manufacturing or Fabricating* | | | | | ● | ● | | | 1 : 1,000 sqft | 1 : 20 employees on maximum shift |
| 126 | Warehouse or Distribution Center | | | | | ● | ● | | | 1 : 1,000 sqft | 1 : 20 employees on maximum shift |
| **Heavy Industrial** | | | | | | | | | | | |
| 127 | Above-Ground Storage Tanks for Hazardous Materials* | | | | | | ● | | | 1 : installation | N/A |

| # - See Sec. 36-3.B. Use Classifications and Use-Based Standards | ● = Permitted<br>○ = SUP<br>* = Use-Based Standards<br><br>Uses | NH-1, Neighborhood 1 District (Rural, Suburban, Urban) | NH-2, Neighborhood 2 District (Rural, Suburban, Urban) | NH-3, Neighborhood 3 District (Rural, Suburban, Urban) | CR, Commercial/Retail District (Rural, Suburban, Urban) | LI, Light Industrial District (Rural, Suburban, Urban) | HI, Heavy Industrial District (Rural, Suburban, Urban) | OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban) | OS-2, Open Space-Drainage District (Rural, Suburban, Urban) | Min. Vehicle Parking | Min. Bicycle Parking |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 128 | Energy Production or Refinement | | | | | | ● | | | 1 : 400 sqft office + 1 : employee on maximum shift | 1 : 20 employees on maximum shift |
| 129 | ~~Extraction of Raw Materials~~Excavation of Raw Materials* | | | | ○ | ● | ● | | | 1 employee on maximum shift | 1 : 20 employees on maximum shift |
| | **Animals and Agriculture** | | | | | | | | | | |
| 130 | Animal Raising (Commercial Feed Lots)* | | | | | | ○ | | | 1 : employee on maximum shift | 1 : 5 employees on maximum shift |
| 131 | Animal Raising (General Agriculture)* | ● | ● | | | | ● | | | N/A | N/A |
| 132 | Animal Services (Indoor Only)* | ○ | ● | ● | ● | ● | | | | 1 : employee on maximum shift | 1 : 5 employees on maximum shift |
| 133 | Animal Services (With Outdoor Pens) | ○ | ○ | ○ | ● | ● | | | | 1 : employee on maximum shift | 1 : 5 employees on maximum shift |
| 134 | Commercial Crop Farming | ○ | | ● | ● | ● | ○ | | | 1 : employee on maximum shift | 1 : 5 employees on maximum shift |
| 135 | Indoor Agriculture | ○ | ○ | ○ | ● | ● | ● | | | 1 : employee on maximum shift | 1 : 5 employees on maximum shift |
| 136 | Plant Nursery | | ● | ● | ● | ● | | | | 1 : 400 sqft of enclosed space | 1 : 10,000 sqft enclosed space + 1 : 5 employees on maximum shift |
| 137 | Stables or Training | ○ | | | ○ | ● | ● | | | 1 : employee on maximum shift | 1 : 5 employees on maximum shift |
| 138 | Wind or Solar Farm | ○ | | | ○ | ● | ● | | | N/A | N/A |

## B. Use Classifications and Use-Based Standards

### Residential Uses

#### Household Living

**1. Duplex, Triplex, or Quadplex**

**CLASSIFICATION**

A building or buildings designed for two, three, or four units situated on a single lot.

**2. Live/Work**

**CLASSIFICATION**

A single building developed with a nonresidential use including, but not limited to, office and retail uses, where the proprietor of the nonresidential use resides in an attached dwelling unit above or adjacent to the establishment.

**STANDARDS**

The nonresidential use must be permitted within the district and be accessible from the main street frontage. No portion of the complete unit may be separately leased or sold.

**3. Manufactured Home**

**CLASSIFICATION**

A manufactured home that is a multi-section (also known as a double-wide) single-family dwelling constructed in a factory to the standards of the United States Department of Housing and Urban Development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 or the Uniform Building Code, as amended to the date of the unit's construction, and installed consistent with the Manufactured Housing Act and with the rules made pursuant thereto relating to permanent foundations.

**STANDARDS**

In accordance with NMSA 3-21A-3, multi-section (also known as double-wide) Manufactured Homes are permitted in any district that a site-built home is permitted, subject to the same requirements (e.g., parking, landscaping, lot dimensions). Manufactured Homes located in a Manufactured Home Park are subject to the requirements outlined in #4 Manufactured Home Park (MHP) below.

**4. Manufactured / Mobile Home Park (MHP)**

**CLASSIFICATION**

A privately owned tract of land, at least five acres in size, used for the continuous accommodation of 12 or more occupied Manufactured or Mobile Homes and operated for the pecuniary benefit of the owner of the parcel of land, the owner's agents, lessees, or assigns.

**STANDARDS**

1. Each Manufactured/ Mobile Home (MH) to be located in an MHP shall require a manufactured/ mobile home installation permit (MHIP). The owner of an MH unit shall receive an MHIP prior to locating the MH unit in the MHP. All site-built structures (e.g., carport) are required to have a building permit.

2. Permitted uses in an MHP.

a. ~~Manufactured~~ Homes (including double manufactured - or single-wide mobile homes) or site-built homes with complete hookup to utilities.

b. Accessory structures, swimming pools, home occupations, and recreation areas and buildings.

c. Convenience establishments of a commercial nature, including laundries, stores, beauty shops, and barbershops, may be permitted in MHPs, subject to the following restrictions:

i) Such establishments and their parking area shall not occupy more than seven percent of the area of the park;

ii) Shall be discontinued if the Manufactured Home Park is discontinued;

iii) Shall be located, designed, and intended to serve frequent trade or service needs of persons residing in the park only; and

iv) Shall present no visible evidence of their commercial character outside the park.

3. Individual Manufactured Home Spaces (MHS) within an MHP shall have a minimum area of 3,500 square feet, with a minimum width or depth dimension of 35 feet.

4. No structure within an MHP shall not exceed 35 feet in height.

5. Setbacks and spacing (minimum including awnings, canopies, decks, and any other structures attached to, adjacent to, or touching a manufactured home):

a. Dwelling unit front setback: 10'.

b. Dwelling unit side setback: 5'.

c. Dwelling unit rear setback: 10'.

d. MHP boundary to any dwelling unit within the MHP: 10', except adjacent to public right-of-way.

e. MHP boundary to any dwelling unit within the MHP: 25' adjacent to public right-of-way.

f. Carport requirements refer to Figure 36-4-4.

6. Development Standards

a. Other Applicable Regulations. All City requirements must be met unless specifically noted herein, including but not limited to landscaping, sidewalks, signs, streetlighting, and off-street parking. All federal, state, and local accessibility requirements shall be met.

b. Screening. All MHPs shall have opaque perimeter walls and/or fences at least five feet in height installed prior to the issuance of a certificate of occupancy for the MHP or each phase of the MHP. Each MHS shall have a wall and/or fence defining the MHS.

c. Utilities. Utility placement shall be approved by the Utilities Department Director.

d. Streets.

i) All MHPs shall have direct motor vehicle access from a collector or higher designated roadway. Each mobile home space shall have direct access to an internal street. Direct access to exterior public streets is prohibited.

ii) No internal street intersections shall be less than 125 feet from MHP entrances/exits or other internal street intersections. Each intersection, internal and external, shall be designed as close to 90 degrees as possible.

iii) All streets within an MHP shall meet the following minimum widths:

**Figure 36-3-3. Required Pavement Width by Roadway Type**

| Parking Permitted* | Local, one way (Serving fewer than 20 MHS) | Local, two way (Serving 20 to 50 MHS) | Collector (Serving more than 50 MHS) |
|---|---|---|---|
| No | 14' | 18' | 20' |
| One side | 18' | 27' | 29' |
| Both sides | 27' | 36' | 38' |

* Parallel parking lanes are to be striped at nine feet in width.

e. Sidewalks. There shall be a network of sidewalks at least five feet in width connecting mobile home spaces with each other and with MHP facilities.

f. Drainage. All MHS and streets shall be designed to ensure proper drainage. A complete drainage plan including elevations and drainage calculations shall be approved by the Community Development Director. No on-lot retention ponds are to be incorporated within the drainage plan for MHPs.

g. Refuse. The management of a MHP shall provide adequate refuse collection facilities. These collection facilities shall be constructed and maintained in accordance with all municipal health regulations, shall be properly screened, and shall be designed to bar animals from access to refuse. Refuse shall be removed from collection sites at least once a week.

h. Vehicle Storage Areas. MHP may have a storage yard for recreational and other vehicles. Such storage yards shall have a minimum of 60 square feet of storage area per MHS in the development and shall be located so as not to detract from surrounding properties. All recreational and other vehicles shall be parked in the storage yard while not in use.

i. Personal Storage Options. Each mobile home space may have a personal storage unit provided by the MHP owner or tenant. If provided by the MHP owner, such storage shall be at least six feet in height with a storage capacity of at least 300 cubic feet. Each storage unit shall be anchored permanently to the ground. The storage unit may be located on the mobile home space lot line. As an option to storage units being located on individual mobile home spaces by the MHP owner, storage units may be grouped into a mini-storage building arrangement. At least 300 cubic feet of storage space per MHS shall be provided.

### 5. Mixed-Use

**CLASSIFICATION**

A building developed with two or more different uses including, but not limited to, residential, office, retail, public, or entertainment uses connected above or adjacent to each other. Individual uses within the building are permitted in accordance with those allowed in the same district.

**STANDARDS**

1. Uses – At least 75% of the first story of the structure shall be used for nonresidential use. The remaining portion of the structure above the first story may be used for either residential or nonresidential uses, or a combination of both.

2. Amenities and Open Space – If 13 or more units are provided, the amenities and open space requirements in **Sec. 36-4.C.6. Additional Multi-Family Residential Amenities** shall also apply.

### 6. Mobile Home

**CLASSIFICATION**

A movable or portable housing structure 400 square feet or larger, designed for and occupied by no more than one family for living and sleeping purposes that is not constructed to the standards of the United States department of housing and urban development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 or Uniform Building Code, as amended to the date of the unit's construction or built to the standards of the municipal building code.

**STANDARDS**

Mobile Homes are only allowed in certain cases (e.g., replacing an existing Mobile Home with a safer Mobile Home). See **Sec. 36-5.G. Nonconformities**.

### 7. Multi-Family Dwelling

**CLASSIFICATION**

A residential building designed for occupancy by tenants living independently of one another, excluding a hotel or motel.

**STANDARDS**

A courtyard, plaza, community garden, or other common greenspace is required (400 sqft minimum).

### 8. Single-Family Home

**CLASSIFICATION**

A detached dwelling unit designed and used exclusively for the residence by one family household or one group of lessees. This classification also includes multiple detached dwelling units located on a single property primarily occupied by a family unit.

### 9. Townhouse

**CLASSIFICATION**

A group of two (2) or more attached single-family units, each of which is on an individually platted lot, that share at least one common wall with another unit.

**STANDARDS**

No interior side yard is required and lot width/area is modified in accordance with **Sec. 36-4. Additional Dimensional and Building Design Standards**.

## Congregate Living

### 10. Boarding House or Hostel

**CLASSIFICATION**

A dwelling with more than two rooms that are intended to be rented but which rooms, individually or collectively, do not constitute separate dwelling units, where for compensation and by pre-arrangement for more than two weeks, food and lodging are provided.

### 11. Fraternity or Sorority House

**CLASSIFICATION**

A dwelling with sleeping rooms or a dormitory used for occupancy by individuals in a recognized organization, and in which kitchen facilities are for the common use of all occupants.

## Residential Care

### 12. Assisted Living

**CLASSIFICATION**

A facility providing residence, supervision, and daily assistance for individuals with common dining and recreational areas designed for the needs of the elderly or disabled. Services in these establishments include personal services such as assistance with dressing, grooming, bathing, and social and recreational services, such as meal services, transportation, housekeeping, linen and organized social activities and administration of medication by a person licensed or otherwise authorized in this state to administer the medication.

### 13. Community Residence (Licensed for Persons with Disabilities)

**CLASSIFICATION**

A State-licensed residence for persons who are physically disabled, developmentally disabled, psychiatrically disabled, or mentally ill. Per NMSA 3-21-1C, "All state-licensed or state-operated community residences for persons with a mental or developmental disability and serving ten or fewer persons may be considered a residential use of property for purposes of zoning and may be permitted use in all districts in which residential uses are permitted generally, including particularly residential zones for single-family dwellings."

### 14. Community Residence (Other)

**CLASSIFICATION**

A community residence not elsewhere classified (e.g., homeless shelter or unlicensed group home).

### 15. Halfway House

**CLASSIFICATION**

The residents of halfway houses may be court mandated to live there, and a resident may be coming from a correctional facility rather than a substance use treatment program. As well as serving as a residence, halfway houses provide social, medical, psychiatric, educational, and other similar services. They are termed "halfway houses" due to their being halfway between completely independent living and in-patient or carceral facilities, where residents are highly restricted in their behavior and freedoms.

### 16. Independent Senior Living

**CLASSIFICATION**

An establishment providing dwelling units specifically designed for the needs of older people. In addition to housing, this type of facility provides convenience services, such as meals, housekeeping, and transportation, and community facilities, such as central dining rooms and activity rooms.

### 17. Nursing Home

**CLASSIFICATION**

A facility providing primarily in-patient health care, personal care, or rehabilitative services over a long period of time to persons who are chronically ill, aged, or disabled and who need ongoing health supervision but not hospitalization. Also referred to as Long-Term Care Facility or Skilled Nursing Facility.

### 18. Sober Living House

**CLASSIFICATION**

A sober living house is a peer-managed home designed to help people maintain drug and alcohol sobriety. This is achieved through required sobriety, recovery group attendance, and household participation. Those who live in these houses rent rooms indefinitely and live a life in accordance with their responsibilities with a limit of 10 persons to a residence.

## Accessory or Temporary Uses

## Accessory Uses

### 19. Accessory Dwelling

**CLASSIFICATION**

A self-contained living quarter, including an independent kitchen facility, that is attached or detached to a single-family home located on the same lot.

**STANDARDS**

1. No more than one (1) Accessory Dwelling Unit shall be permitted on a lot.

2. No more than one (1) family unit shall occupy an Accessory Dwelling Unit at a time.

3. Accessory Dwelling Units must meet the setbacks established for Accessory Structures in **Sec. 36-4.B.2. Accessory Structures**.

4. An Accessory Dwelling Unit shall be limited in size to not more than 50% of the total floor area of the principal dwelling's living space.

5. Accessory Dwelling Units may be rented or occupied by a guest.

6. Accessory Dwelling Units may have a separate utility meter from the principal dwelling.

7. Accessory Dwelling Units shall have an assigned address.

### 20. Accessory Structures

**CLASSIFICATION**

A subordinate structure, the use of which is incidental to and customarily found in connection with a principal dwelling on the same property.

**STANDARDS**

See **Sec. 36-4.B.2. Accessory Structures**.

### 21. Animal Raising (Accessory)

**CLASSIFICATION**

The raising and breeding of animals or production of animal products, which is an accessory to a permitted principal use. Typical uses include grazing, ranching, dairy farming, poultry farming, and beekeeping in accordance with Chapter 7 of the Las Cruces Municipal Code. This use does not include slaughterhouses, feedlot operations, and any use included in #130 Animal Raising (Commercial Feed Lots).

**STANDARDS**

See Chapter 7 of the Las Cruces Municipal Code for additional requirements.

### 22. Drive-Thru

**CLASSIFICATION**

A window or similar access point added to a business (including a restaurant, bank, or financial institution, pharmacy, etc.) in which patrons receive service while remaining in their vehicles.

**STANDARDS**

See **Sec. 38-2.N.7. Loading and Stacking** for applicable requirements.

### 23. Home Occupation

**CLASSIFICATION**

An occupation carried on in the home by a member of the household, without the use of a sign to advertise the occupation, without structural alterations to the building or any of its rooms, that does not involve open storage, and that does not create a nuisance to abutting residential property such as emission of odor, increased traffic or generation of light and smoke.

**STANDARDS**

1. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such Home Occupation. No sign, advertisement or display may be used to indicate the presence of a Home Occupation in the structure.

2. The Home Occupation shall be clearly incidental and subordinate to the home's use for residential purposes. Not more than 30 percent of the square footage of the dwelling area shall be used in the conduct of the Home Occupation(s).

3. No equipment shall be used that creates offensive noises, vibration, sound, smoke, dust, odors, heat, glare, environmental concerns, x-rays, or electrical disturbances to radio or television instruments.

4. Delivery of materials to and from the premises shall not involve the use of vehicles over two-ton capacity, except parcel post, United Parcel Service, or similar delivery trucks.

5. No traffic shall be generated by a Home Occupation in greater volume than normally expected in a residential neighborhood, and any need for parking must be accommodated within the required off-street parking for the residence or along the street frontage for the lot.

6. No Outside Storage is permitted in conjunction with a Home Occupation.

7. Auto and vehicle repair are not permitted for home occupations due to oil, grease, and material discharge.

8. There shall be no change in the outside appearance of the building or premises. There shall be no outside storage of business-related equipment or supplies except one company owned vehicle, that does not exceed (1) one ton. Only this vehicle shall be permitted to have signs and advertising in accordance with the vehicle sign provisions within the sign code.

### 24. Outdoor Display (Permanent)

**CLASSIFICATION**

The permanent display of merchandise offered for sale external to a retail building which can be viewed and/or accessed by the customer for purchase.

### 25. Outdoor Storage

**CLASSIFICATION**

The keeping of materials, equipment, supplies, and merchandise external to a building that are not for sale and are not intended to be viewed by customers for purchase.

**STANDARDS**

See **Sec. 38-8. Fencing, Screening, and Buffering** for applicable screening requirements.

### 26. Pools and Recreational Courts

**CLASSIFICATION**

An area for active play and recreation that includes but is not limited to, open space, sports courts, play equipment, trails, restrooms, indoor or outdoor pools, and maintenance structures. The use may be either publicly or privately maintained.

**Standards**

See **Sec. 38-8.F.1. Swimming Pools, Whirlpools, Hot Tubs, and Other Similar Structures**.

### 27. Solar Energy System (Accessory)

**CLASSIFICATION**

A device accessory to a primary structure or use that relies upon the sun's rays as an energy source and is capable of collecting, distributing, and storing the sun's radiant energy.

**STANDARDS**

Solar energy system devices must be designed and located to avoid glare or reflection onto adjacent properties and adjacent roadways and shall not interfere with traffic or create a safety hazard, and must meet the following applicable requirements.

1. Ground-Mounted Solar Energy Systems

   a. Ground-mounted solar energy systems must meet applicable setbacks for the zoning district and shall be located in the rear yard.

   ~~b. The solar panels and supporting framework cannot extend more than six feet above the existing grade.~~

   b~~c~~. The surface area shall not exceed half the building footprint of the principal structure.

2. Roof-Mounted Solar Energy Systems

   a. Roof-mounted systems shall be mounted as flush as possible to the roof and not more than 12 inches above the existing roof surface.

   b. Roof-mounted systems must also be in compliance with the maximum building height for the applicable zoning district.

   c. Roof-mounted systems that are visible from the nearest edge of the street frontage Right-of-Way shall not have a highest finished pitch more than five percent steeper than the roof pitch on which the system is mounted, and shall be no higher than 16 inches above the roof.

### 28. Walk-Up Window

**CLASSIFICATION**

A window for service to patrons not in a vehicle (i.e., pedestrians or cyclists), typically in conjunction with a restaurant or other retail use.

**STANDARDS**

A walk-up window must face a sidewalk or other safe queuing area for pedestrians. A walk-up window queuing area shall not be located in a drive aisle.

### 29. Wind Energy System (Accessory)

**CLASSIFICATION**

A device accessory to a primary structure or use that relies upon wind as an energy source and is capable of collecting, distributing, and storing wind energy.

**STANDARDS**

1. General Standards

   a. Wind Energy Systems are permitted only in the rear yard.

b. The minimum distance between the ground and any part of a rotor blade must be at least twenty (20) feet.

c. Wind Energy Systems shall not be illuminated, nor may they bear any signs or advertising.

d. Wind Energy Systems must have automatic braking, governing, or feathering system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the support structure, rotor blades, and turbine components.

e. All wiring serving Wind Energy Systems must be underground.

f. Noise produced by Wind Energy Systems may not exceed 55 dBA measured at the property line.

h. Wind Energy Systems must not cause any interference with normal radio and television reception in the surrounding area, with any public safety agency or organization (including but not limited to police, fire, and ambulance) radio transmissions, or with any microwave communications link. The owner shall bear the cost to conduct a study to determine interference, and of immediately eliminating any such interference should any occur, or must immediately shut down the system or parts of the system causing the interference.

i. A finish (paint/surface) must be provided for the Wind Energy System that reduces the visibility of the facility, including the rotors. In most circumstances this condition may be satisfied by painting the support structure and rotors with flat light haze gray paint. If the support structure is unpainted it must be of a single color throughout its height. The owner must maintain the finish, painted or unpainted, so that no discoloration is allowed to occur.

j. The diameter of the area swept by the rotors may not exceed 12 feet.

2. Freestanding Systems – Additional Standards

a. Wind Energy Systems may be mounted on a tower detached from other structures on the lot.

b. The minimum setback from any property line, overhead utility line, or public right-of-way shall be a distance equal to the vertical distance from the ground to the tip of a wind generator blade when the tip is at its highest point unless the affected utility, property owner, or governmental entity grants written permission for a lesser setback. In addition to the system's structures, guy wires associated with towers shall meet applicable setbacks for the zoning district.

c. Freestanding systems measured from the top blade may not exceed 45 feet in height.

d. Support structures for freestanding systems must be unclimbable from the ground to a height of at least 15 feet.

e. A maximum of one freestanding Wind Energy System shall be allowed per lot.

3. Roof-Mounted Systems – Additional Standards

a. Wind Energy Systems may be mounted on the roof of a structure as an appurtenance.

b. Roof-mounted systems measured from the top blade may not be more than five feet over the maximum allowed height for the structure.

c. A maximum of one roof-mounted Wind Energy System shall be allowed per lot.

d. Before any roof-mounted system is mounted, the property owner must submit a report prepared by a licensed professional engineer attesting to the fact that the structure to which the system will be mounted is or will be sufficiently strong to support the system and to withstand the wind, vibratory, and other loads to which it would be subjected as a result of mounting the system on it. This report is subject to approval by the City Engineer prior to the mounting of the system.

## Temporary Uses

### 30. Concrete Batch Plant (Temporary)

**CLASSIFICATION**

A temporary manufacturing facility for the production of concrete or asphalt during construction of a project, and to be removed when the project is completed.

### 31. Construction Building (Temporary)

**CLASSIFICATION**

A temporary building or structure used by a land developer to facilitate on-site operations and coordination of active construction.

**STANDARDS**

Such building(s), facilities, or other arrangement approved by the Community Development Director shall be removed upon completion of construction. Construction buildings or any other facilities shall be maintained in a neat and orderly fashion.

### 32. Construction Yard (Temporary)

**CLASSIFICATION**

A temporary outdoor storage facility used by a land developer or homebuilder to house materials and equipment for active on-site construction, including all necessary fencing, lighting, and surveillance measures.

**STANDARDS**

Such yard shall be removed upon completion of construction. Construction yards or any other facilities shall be maintained in a neat and orderly fashion. Open yards shall be enclosed by a fence at least five feet in height~~.~~ and require written approval by the Community Development Director.

### 33. Outdoor Display (Temporary)

**CLASSIFICATION**

The temporary display of merchandise offered for sale external to a retail building in conjunction with seasonal or short-term events, which can be viewed and/or accessed by the customer for purchase. Display is considered "temporary" when brought inside nightly (e.g., sidewalk sale).

**STANDARDS**

These types of sales and displays shall be permitted for no more than 21 calendar days at a single location one time in a calendar year.

### 34. Real Estate Office (Temporary)

**CLASSIFICATION**

A model home or temporary structure used by a home builder to facilitate on-site sales and display within a subdivision where there are new homes available for purchase already built or to be built on lots located therein.

**STANDARDS**

A Real Estate Office (Temporary) is allowed in conjunction with a developing subdivision for a period of up to three years or when 85 percent of lots are sold, whichever occurs first. The Community Development Director may approve extensions up to two years. For model homes, a temporary Certificate of Occupancy will be issued until the above period ends, at which time a permanent Certificate of Occupancy is required.

### 35. Seasonal/Temporary Sales or Use

**CLASSIFICATION**

A business, sale, display, or event which is conducted for a limited time or on a cyclical annual or monthly basis. Uses may be conducted in tents, temporary or permanent buildings, vehicles, outside, or combination thereof.

**STANDARDS**

1. A temporary use permit from the City is required. The application submittal shall include the applicant's contact information, a description of the temporary use, a Site Plan (see **Sec. 36-5.B. Site Plans**), the date(s) of operation, and the property owners' written consent.

2. The temporary use may occupy up to 25 percent of the parking area if there are 20 spaces or less; 15 percent between 21 and 50 spaces; or 10 percent if there are more than 50 spaces. The temporary use shall not obstruct accessible parking spaces. There must still be adequate room for traffic circulation around the temporary use.

3. All uses proposed to be located in City parks shall comply with Chapter 20 Parks and Recreation of the Municipal Code.

4. Additional Restrictions:

a. Christmas Trees: Sales shall not occur before November 15 or after December 31.

b. Fireworks: Sales shall not occur before June 20 or after July 6. Sale of fireworks is also permitted three calendar days preceding and including New Year's Day, Chinese New Year and Cinco de Mayo of each year.

c. Other Temporary Stands: These uses are permitted for no more than three months for the sale of seasonal merchandise and for no more than 30 calendar days for nonseasonal merchandise.

d. Carnival or amusement park: Permitted for no more than 14 calendar days at a single location one time in a calendar year (not including the time required to set up and take down the structures associated with the use). Additional time requires a Special Use Permit.

e. Yard, garage or rummage sales, fund raising or celebration activities for nonprofit organization: These types of uses shall be conducted for no more than four calendar days, three times at one location in a calendar year. No permits are required for these uses when conducted from an individual's dwelling or an institution. If conducted from a business or other property not used mainly for residential or institutional purposes, all requirements for temporary uses must be met.

**Public and Institutional Uses**

## Child Care

### 36. Child Care Center

**CLASSIFICATION**

A facility licensed by the State that provides care, services, and supervision for less than 24 hours a day to children, and is located in a nonresidential setting. (N.M. Code R. § 8.16.2.7(I))

### 37. Child Care Home (≤6)

**CLASSIFICATION**

A private dwelling licensed by the State that provides care, services and supervision for a period of less than 24 hours of any day for no more than 6 children, where the licensee resides in the home and serves as the primary educator. (N.M. Code R. § 8.16.2.7(AA))

**STANDARDS**

Licensee must reside in the home and serve as the primary educator. Subject to Home Occupation standards (see #23), except maximum number of patrons.

### 38. Group Child Care Home (7-12)

**CLASSIFICATION**

A private residence licensed by the State that provides care, services, and supervision for 7 but not more than 12 children, where the licensee resides in the home and serves as the primary educator. (N.M. Code R. § 8.16.2.7(CC))

**STANDARDS**

Licensee must reside in the home and serve as the primary educator. Subject to Home Occupation standards (see #23), except maximum number of patrons.

## Schools

### 39. School (K-8)

**CLASSIFICATION**

A public or private institution approved by the State for the teaching of children between the grades of kindergarten and 8$^{th}$ grade, often referred to as primary, elementary, and/or middle school.

**STANDARDS**

All sites shall have a minimum of one acre. See **Sec. 38-2.N.7. Loading and Stacking** for applicable requirements.

### 40. School (9-12)

**CLASSIFICATION**

A public or private institution approved by the State for the teaching of children between the grades of 9$^{th}$ and 12$^{th}$ grade, often referred to as secondary and/or high school.

**STANDARDS**

This use shall be located on a collector or higher designated roadway. All sites shall have a minimum of one acre. See **Sec. 38-2.N.7. Loading and Stacking** for applicable requirements.

### 41. School (College or University)

**CLASSIFICATION**

An institution recognized by the State, other than a technical or trade school, that provides full-time or part-time secondary education beyond grades 9-12, and awards associate, baccalaureate or higher degrees of education.

**STANDARDS**

This use shall be located on a Collector or higher designated roadway. All sites shall have a minimum of one half-acre.

### 42. School (Commercial, Trade, or Technical)

**CLASSIFICATION**

An institution for the teaching and on-site instruction of industrial, clerical, managerial, or artistic skills.

Trade or Technical School requires an SUP in NH-1 zoning district.

## Public/Semi-Public

### 43. Cemetery or Columbarium

**CLASSIFICATION**

A site, building, or structure used for the burial of the human dead, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such site, building, or structure.

**STANDARDS**

Any cemetery site shall contain at least five acres and shall be located on a major local or higher designated roadway. A columbarium shall be located on a major local or higher designated roadway with the lot size meeting the zoning district minimum lot size.

### 44. City Facility or Building

**CLASSIFICATION**

A building or structure owned by the municipality and used for the administration and operation of a City Department.

### 45. Community Building or Banquet Center

**CLASSIFICATION**

A building or complex of buildings that house cultural, recreational, athletic, food service and/or entertainment facilities owned and/or operated by a governmental agency or private nonprofit agency.

### 46. Community Garden

**CLASSIFICATION**

A facility operated by a public or semi-public entity for the cultivation of fruits, flowers, vegetables, or other plants for consumption or enjoyment by more than one person or family.

### 47. Convention Center or Exhibition Hall

**CLASSIFICATION**

A building or complex of buildings that are designed for the gathering of individuals and display of topic-specific goods, services, or information.

### 48. Correctional Facility

**CLASSIFICATION**

Publicly or privately operated facility housing persons awaiting trial or persons serving a sentence after being found guilty of a criminal offense.

### 49. Landfill

**CLASSIFICATION**

A lot or part thereof used for the disposal of garbage, sewage, trash, refuse, junk, discarded machinery, or nontoxic waste material by abandonment, dumping, burial, burning, or other means.

### 50. Library or Museum

**CLASSIFICATION**

A building or public facility serving as a repository for a collection of natural, scientific, artistic, or literary objects of interest, and designed to be used for viewing, with or without an admission charge. Uses may include the sale of goods and novelties, and the ability to check out materials including books, videos, and other literature.

### 51. Place of Worship

**CLASSIFICATION**

A building, structure, or site used for nonprofit purposes by a recognized and legally established group primarily for religious worship and related religious services, including an area for assembly, housing of clergy, and related incidental activities.

### 52. Public Park

**CLASSIFICATION**

An area developed for active play and recreation that includes, but is not limited to, open space, sports courts, play equipment, trails, restrooms, and maintenance structures. The park may be either publicly or privately maintained.

**STANDARDS**

All uses proposed to be located in City parks shall comply with Chapter 20 of the Municipal Code. Recreational events and activities may be permitted subject to Community Development Director approval.

Neighborhood Parks: Generally, these parks will be up to ten acres in size.

Community Parks: Generally, these parks will be up to 100 acres, but not less than ten acres in size, and should be located on a minor arterial or higher designated roadway.

Regional Parks: Generally, these parks will be more than 100 acres in size and should be located on a Principal Arterial.

### 53. Public Utilities (Major)

**CLASSIFICATION**

A building, complex of buildings, or facility owned by public or private entity used for the supply and distribution of utilities to the public including water, sanitary sewer, storm drainage, electricity, and gas services.

**STANDARDS**

The site shall be developed and maintained in conformance with the general character and appearance of the district, and such development shall include landscaping and suitable opaque screening in the form of a solid wall, fence or compact shrubbery around the entire perimeter of the lot or tract, or around the installation itself in cases such as transformers. A wall or fence may be up to ten feet high.

Wastewater treatment plants or transfer stations: Use shall be located at least 300 feet from any residential zoning district boundary.

### 54. Public Utilities (Minor)

**CLASSIFICATION**

The installation, alteration, or maintenance by a service provider or government agency of above- or below-ground utility structures, including gas, electrical, steam, or water transmission lines, or their distribution systems, including all necessary poles, wires, mains, drains, sewers, pipes, conduits, hydrants, and other similar equipment associated, but not including buildings. Such use is reasonably necessary for the provision of adequate service by such entity for the public.

**STANDARDS**

The site shall be developed and maintained in conformance with the general character and appearance of the district, and such development shall include landscaping and suitable opaque screening in the form of a solid wall, fence or compact shrubbery around the entire perimeter of the lot or tract, or around the installation itself in cases such as transformers. A wall or fence may be up to ten feet high.

### 55. Recycling Drop-Off Point

**CLASSIFICATION**

A facility for the collection of materials for recycling, excluding vehicles or vehicle parts.

### 56. Waste or Recycling Processing Facility

**CLASSIFICATION**

A building or structure used for the collection and processing of waste material, both recyclable or non-recyclable, including the preparation of materials for efficient shipment, compacting, flattening, grinding, crushing, or similar process.

## Retail, Service, and Office Uses

### Professional Office

### 57. Professional Office (Local)

**CLASSIFICATION**

An establishment for the conduct of a variety of businesses in an office setting completely enclosed within a structure less than or equal to 20,000 square feet in area.

NH-1 zoning district is limited to structures less than 3000 square feet.

### 58. Professional Office (Regional)

**CLASSIFICATION**

An establishment for the conduct of a variety of businesses in an office setting completely enclosed within a structure greater than 20,000 square feet in area.

### Medical

### 59. Emergency Room (Standalone)

**CLASSIFICATION**

A standalone facility that provides immediate or emergent medical treatment as part of a hospital setting. Patients are treated on a walk-in basis and via emergency transport.

**STANDARDS**

This use shall be located on a Collector or higher designated roadway.

### 60. Hospital

**CLASSIFICATION**

An institution used or designed for the housing or treatment of sick or injured patients where they are given medical or surgical treatment intended to restore them to health, and that is licensed by the State. Includes customarily incidental uses, such as a gift shop or cafeteria.

**STANDARDS**

This use shall be located on a Minor Arterial or higher designated roadway.

### 61. Medical Clinic or Office

**CLASSIFICATION**

An institution for the examination and treatment of in-patients and out-patients by an individual or group of doctors, including dentists, or other licensed members of a human healthcare profession.

### 62. Medical or Research Laboratory

**CLASSIFICATION**

An establishment engaged in research concerning biology, microbiology, biochemistry, other life sciences, and general healthcare such as agricultural research, food research, pharmaceutical research, oceanographers, biotechnical research, and other related life science and healthcare research.

### 63. Urgent Care

**CLASSIFICATION**

A stand-alone facility, outside of a hospital setting, that provides immediate or emergent medical treatment on a strictly outpatient basis. Patients are generally treated on a walk-in basis and services are not intended for long-term or overnight care.

## Lodging

### 64. Bed and Breakfast

**CLASSIFICATION**

A commercial establishment within a detached dwelling unit containing dining and bathroom facilities with sleeping rooms for short-term guest lodging. The owner/operator shall live in the dwelling, in another dwelling on the property, or on property adjacent to the establishment.

**STANDARDS**

In the Rural Character Area, the number of rooms is limited to eight; in all other areas, the number of rooms is limited to 15. Overall design of buildings and/or site design shall be consistent with the residential neighborhood, architecturally compatible with existing buildings or be architecturally compatible with building types normally found in the zoning district in which it is located.

### 65. Campground

**CLASSIFICATION**

A lot or parcel used for transient occupancy by lodging in tents, camp trailers, travel trailers, motor homes, or similar movable and temporary sleeping quarters, excluding mobile homes.

### 66. Hotel or Motel

**CLASSIFICATION**

A commercial establishment providing sleeping accommodations and customary lodging services, including maid service, the furnishing and upkeep of furniture and linens, and telephone and desk service, in which rooms are accessed by a hallway internal to the building or externally via an exposed hallway, balcony, parking lot or sidewalk.

### 67. Recreational Vehicle Park

**CLASSIFICATION**

A lot or parcel used for the accommodation of recreational vehicles for recreational use or transient lodging, including associated uses such as laundry, restroom, and shower facilities.

**STANDARDS**

1. Recreational vehicle (RVs), when used for temporary or permanent living purposes, shall be located solely in a recreational vehicle park (RVP) except as approved by the Community Development Director as follows:

a. Arrangements for temporary construction yards,

b. One RV temporarily located on a single-family lot, or

c. Other temporary arrangement (e.g., emergency shelter).

2. Permitted uses in an RVP.

a. Recreational vehicle parking.

b. One manufactured or site-built home for the RVP caretaker.

c. Accessory structures, swimming pools, home occupations, and recreation areas and buildings.

d. There shall be a community building or buildings that provide for the recreational and service needs of occupants of the RVP. It may include management offices, dumping stations, restrooms, showers, laundry/dry cleaning facilities and other uses and structures customarily incidental to operation of an RVP. The area of the community building or buildings may not be calculated as part of the required recreational area.

e. Convenience establishments of a commercial nature, including laundries, stores, beauty shops, and barber shops, may be permitted in RVP subject to the following restrictions:

i) Such establishments and their parking area shall not occupy more than seven percent of the area of the park;

ii) Shall be discontinued if the RVP is discontinued.

iii) Shall be located, designed, and intended to serve frequent trade or service needs of persons residing in the park only; and

iv) Shall present no visible evidence of their commercial character outside the park.

2. The minimum RVP size is two acres and each RV space shall be a minimum of 1,200 square feet not including sidewalks or streets. The density of spaces in any RVP shall not exceed 20 spaces per acre.

3. No structure within an RVP shall exceed 35 feet in height.

4. Development Standards

a. Other Applicable Regulations. All City requirements must be met unless specifically noted herein, including but not limited to Landscaping, Sidewalks, Signs, Streetlighting, and Off-Street Parking. All federal, state, and local accessibility requirements shall be met.

b. Screening. All RVPs shall have opaque perimeter walls and/or fences at least five feet in height installed prior to the issuance of a certificate of occupancy for the RVP or each phase of the RVP. Each RV space shall have a wall and/or fence defining the RVS.

c. Utilities. Utility placement shall be approved by the Utilities Department Director. Water, sewer, electricity, telephone, and other necessary utilities shall be available at the RVP. A means for emptying sewage holding tanks shall be provided and approved by City and the State Environment Department.

d. Streets.

i) RVPs shall have direct motor vehicle access to or be located on a collector or higher designated roadway. No entrance to or exit from an RVP shall be permitted through a residential zoning district.

ii) Private access ways and individual space arrangements shall be designed to accommodate the frequent movement of recreational vehicles.

There shall be at least three parking spaces designated in the RVP for each two RV spaces. Parking may be provided in common parking areas, on individual RV spaces, and/or on RVP streets. All parking (including RV spaces) must be paved to meet City standards.

iv) All streets within an RVP shall meet the following minimum widths:

**Figure 36-3-4. Required Pavement Width by Roadway Type**

| Parking Permitted* | Local, one way (Serving fewer than 20 RVs) | Local, two way (Serving 20 to 50 RVs) | Collector (Serving more than 50 RVs) |
|---|---|---|---|
| No | 14’ | 18’ | 20’ |
| One side | 18’ | 27’ | 29’ |
| Both sides | 27’ | 36’ | 38’ |

* Parallel parking lanes are to be striped at nine feet in width.

e. Sidewalks. There shall be a network of sidewalks at least five feet in width connecting RV spaces with each other and with RVP facilities.

f. Recreation. There shall be an active, usable recreational area(s) for tenants, comprising at least five percent of the gross site area, which shall not include required setback areas or similar areas not usable for recreational activities.

g. Refuse. Adequate refuse collection facilities shall be provided, constructed, and maintained in accordance with all municipal health regulations, and shall be screened from view and designed to bar animals from access to refuse. Refuse shall be removed from collection sites at least once a week.

## Recreational and Entertainment

### 68. Botanical Garden

**CLASSIFICATION**

A public or private facility for the demonstration and observation of the cultivation of flowers, fruits, vegetables, or ornamental plants.

### 69. Golf Course

**CLASSIFICATION**

A public or private amusement enterprise including nine or more holes of golfing, which may include an associated clubhouse. This use does not include mini-golf courses and driving ranges.

### 70. Indoor Entertainment

**CLASSIFICATION**

An amusement enterprise offering entertainment or games of skill to the general public for a fee or charge, wherein all portions of the activity takes place indoors, including, but not limited to, a bowling alley, billiard/pool hall, firing /archery range, skating rink, racquetball/handball club, batting cages, indoor tennis courts/club, indoor swimming pool, video game arcade, and indoor trampoline park.

### 71. Outdoor Entertainment

**CLASSIFICATION**

An amusement enterprise offering entertainment or games of skill to the general public for a fee or charge, wherein any portion of the activity takes place outdoors including, but not limited to, golf driving range, miniature golf course, temporary or permanent amusement park, firing/archery range, batting cages, automobile racetrack, go-cart tracks, swimming pool, sport arena/complex or track, or zoo.

**STANDARDS**

Parking and structures shall be located a minimum of 300 feet from any NH-1 zoning district boundary. Swimming pools must meet requirements outlined in Chapter 30 Building Code and in **Sec. 38-8. Fencing, Screening, and Buffering**.

## Retail Shops and Services

### 72. Adult Business

**CLASSIFICATION**

A sexually oriented business, including, but not limited to, an adult arcade; adult book or video store; adult cabaret; adult dancing establishment; adult novelty store; and adult theater.

**STANDARDS**

1. Such uses shall be located at a minimum of 1,000 feet from a property line of a:

   a. School;

   b. Church;

   c. Nursery/day care; or

   d. Public park or recreational facility.

2. These uses shall be permitted, provided such uses are located at a minimum of 500 feet from the property line of a liquor establishment. The distance shall be measured from the Adult Bookstore/Video Store or the Adult Amusement Establishment to the property line of the liquor establishment; and

3. The operator of an Adult Bookstore/Video Store or Adult Amusement Establishment shall affix a sign to the exterior wall nearest the primary entrance to the structure in which such enterprise is located. This sign does not count toward the requirements included in **Sec. 38-10. Signs**. Such signs shall be 36" × 18", shall have red lettering (letters shall be 2" in width and 3" in height) on a white background and it shall state as follows:

   WARNING: ADULT BOOKSTORE/VIDEO STORE

THE BUSINESS WITHIN IS SEXUALLY ORIENTED

or

WARNING: ADULT AMUSEMENT ESTABLISHMENT

THE BUSINESS WITHIN IS SEXUALLY ORIENTED.

4. Distance measurements shall include streets, alleys, channels, canals, other public rights-of-way and railroad right-of-way.

### 73. Art Studio or Instruction

**CLASSIFICATION**

An establishment that engages in the creation of artistic effects, or the instruction, for a fee, of artistic skills and lessons including, but not limited to, painting, floral design, dance, photography, glass blowing, illustration, and woodworking.

### 74. Bank or Financial Institution

**CLASSIFICATION**

An establishment for the deposit, custody, loan, exchange or issue of money, the extension of credit, and facilitating the transmission of funds excluding pawnshops, check cashing businesses, payday advance/loan businesses, car title loan businesses and bail bonds. A drive-thru may be permitted only as an accessory use (see #22 Drive-Thru).

### 75. Flea Market

**CLASSIFICATION**

An open-air market in which spaces are rented or leased for the purpose of selling second-hand articles and home crafts.

### 76. Gas Station

**CLASSIFICATION**

Any facility, equipment, or fixture, including a canopy, used for retail dispensing of motor vehicle fuels primarily to passenger vehicles.

**STANDARDS**

Where permitted within the NH districts, this use shall be located on a Collector or higher designated roadway.

See **Sec. 38-2.N.6.a)ii) Gas Pump Islands** for additional applicable requirements.

### 77. Grocery (Local)

**CLASSIFICATION**

A retail establishment primarily selling prepackaged and perishable food as well as other convenience and household goods that is 30,000 square feet or less.

Stores shall not exceed 3,000 sq ft in the NH-1 District to ensure compatibility with residential development.

### 78. Grocery (Regional)

**CLASSIFICATION**

A retail establishment primarily selling prepackaged and perishable food as well as other convenience and household goods that is greater than 30,000 square feet.

**STANDARDS**

Maximum Vehicular Parking Requirements:

1. For development that requires up to 20 spaces or less, new development shall not provide more than 50% more than the minimum number of off-street vehicular parking spaces in **Figure 36-3-2. Permitted Use Chart** based on the proposed uses(s).

2. For development that requires more than 20 spaces, new development shall not provide more than 20% percent more than the minimum number of off-street vehicular parking spaces in **Figure 36-3-2. Permitted Use Chart** based on the proposed uses(s).

### 79. Liquor or Package Store

**CLASSIFICATION**

A retail establishment primarily selling liquor, beer, wine, and/or other alcoholic beverages for off-site consumption.

**STANDARDS**

Alcohol sales for off-premises consumption is allowed, provided that the establishment complies with all New Mexico State law requirements, including but not limited to any required spacing from other uses or facilities.

### 80. Payday Loans, Check Cashing, or Bail Bonds

**CLASSIFICATION**

An establishment engaged in providing short-term loans, payouts of checks, or lump sums of money exclusive of a bank or financial institution.

### 81. Pawn Shop

**CLASSIFICATION**

An establishment that engages in the business of loaning money on the security of pledges, deposits, or conditional sales of personal property, or the purchase or sale of personal property.

### 82. Personal Services

**CLASSIFICATION**

An establishment primarily engaged in the provision of frequent or recurrent needed services of a personal nature. Uses include but are not limited to, beauty and barber shops, laundry and drycleaning pick-up/drop-off establishments, permanent cosmetics, and incidental retail sales of products related to the provided services.

### 83. Retail Store (Local)

**CLASSIFICATION**

A commercial establishment no greater than 25,000 square feet that provides goods and/or services directly to a consumer, where such goods are available for immediate purchase and removal from the premises by the purchaser. Common uses and stores include but are not limited to, specialty shops, pharmacies, new and packaged automobile parts, convenience stores, hardware supply, upholstery shops, sports equipment sales, and clothing sales.

**STANDARDS**

Stores shall not exceed 3,000 sq ft in the NH-1 District to ensure compatibility with residential development.

### 84. Retail Store (Regional)

**CLASSIFICATION**

A commercial establishment greater than 25,000 square feet that provides goods and/or services directly to a consumer, where such goods are available for immediate purchase and removal from the premises by the purchaser. Common uses and stores include but are not limited to, pharmacies, new and packaged automobile parts, convenience stores, hardware supply, upholstery shops, sports equipment sales, and clothing sales.

**STANDARDS**

Maximum Vehicular Parking Requirements:

1. For development that requires up to 20 spaces or less, new development shall not provide more than 50% more than the minimum number of off-street vehicular parking spaces in **Figure 36-3-2. Permitted Use Chart** based on the proposed uses(s).

2. For development that requires more than 20 spaces, new development shall not provide more than 20% percent more than the minimum number of off-street vehicular parking spaces in **Figure 36-3-2. Permitted Use Chart** based on the proposed uses(s).

### 85. Retail Store (Sundry)

**CLASSIFICATION**

A commercial establishment that engages in the sale of various miscellaneous items that are usually of small value and insignificant enough to be mentioned individually including, but not limited to dry goods, toiletries, household supplies, and perishable and nonperishable foods.

**STANDARDS**

A minimum of 10 percent of the floor area of the Retail Store (Sundry) must be dedicated to fresh produce and designated as such within the Certificate of Occupancy.

Stores shall not exceed 3,000 sq ft in the NH-1 District to ensure compatibility with residential development.

### 86. Shopping Center

**CLASSIFICATION**

One or more connected buildings or structures used for commercial entities which are planned, constructed, developed, owned or managed independently or as a total entity and share access, parking, drainage, landscaping, and signage.

**STANDARDS**

Maximum Vehicular Parking Requirements:

1. For development that requires up to 20 spaces or less, new development shall not provide more than 50% more than the minimum number of off-street vehicular parking spaces in **Figure 36-3-2. Permitted Use Chart** based on the proposed uses(s).

2. For development that requires more than 20 spaces, new development shall not provide more than 20% percent more than the minimum number of off-street vehicular parking spaces in **Figure 36-3-2. Permitted Use Chart** based on the proposed uses(s).

| Food and Beverage |
|---|

### 87. Bar

**CLASSIFICATION**

An establishment that is primarily engaged in the sale of alcoholic beverages to be consumed on the premises including, but not limited to, taverns, night clubs, private clubs, and similar facilities.

**STANDARDS**

Alcohol sales for on-premises consumption is allowed, provided that the establishment complies with all New Mexico State law requirements, including but not limited to any required spacing from other uses or facilities.

### 88. Cafe

**CLASSIFICATION**

A small-scale food and beverage establishment that provides a casual dining experience. The primary focus of a Cafe is to serve a variety of hot and cold beverages along with light meals and snacks such as pastries, sandwiches, and salads. Cafes often include limited retail sales.

**STANDARDS**

In the NH-1 district, Cafes shall not exceed 3,000 square feet in area and Drive-Thrus are not permitted.

### 89. Food Truck Park

**CLASSIFICATION**

A lot or parcel used for the temporary parking of vehicle mounted food service establishments designed to be readily movable, in which food and beverages are sold for on- or off-site consumption, and may also include other mobile vendors offering retail goods and services.

**STANDARDS**

1. Food truck parks are subject to all regulations and required certifications from the New Mexico Health Department.

2. Hours of operation shall be limited to 8 a.m. to 9 p.m.;

3. Signage for the park is allowed in accordance with **Sec. 38-10. Signs**. Within the park, signs are allowed on the vehicle itself and each truck is permitted one Sidewalk Sign;

4. A drive-thru is not permitted in conjunction with the food truck park;

5. Food truck vendors shall not operate in required parking spaces, driveways, or fire lanes; and

6. A waste receptacle is required for every food truck vending unit and waste shall be removed daily.

### 90. Private Club or Lodge

**CLASSIFICATION**

An organization operated solely for recreational, fraternal, social, patriotic, political, benevolent or athletic purposes, but not for pecuniary gain, and that only sells alcoholic beverages incidental to its operation.

### 91. Restaurant

**CLASSIFICATION**

An establishment that prepares and sells food and beverages for immediate or off-site consumption, in which customers order at a counter or in similar fashion prior to sitting within the building or on the premises.

### 92. Tap Room or Tasting Room

**CLASSIFICATION**

An establishment associated with a local brewery, winery, or distillery operating under an approved Small Brewer's License as governed by Section 60-6A-26.1 NMSA 1978, an approved Winegrower's License as governed by Section 60-6A-11 NMSA 1978, or an approved Craft Distiller's License as governed by Section 60-6A-6.1 NMSA 1978 where beer, wine, or spirits are available for consumption on-site.

Any production of alcohol as regulated by State law under one of these licenses is considered Artisan Manufacturing (see #122).

Such use may or may not include food sales.

**STANDARDS**

Alcohol sales for on- or off-premises consumption is allowed, provided that the establishment complies with all New Mexico State law requirements, including but not limited to any required spacing from other uses or facilities.

## Commercial, Auto, and Industrial Uses

### Commercial

**93. Catering or Commercial Off-Site Kitchen**

**CLASSIFICATION**

An establishment engaged in cooking, preparing, and delivering food or beverages for off-site consumption.

**94. Contractors Yard or Building Material Sales**

**CLASSIFICATION**

An establishment or structure used for the repair, maintenance, or storage of a contractor's vehicles and equipment, or sales of materials used in construction including, but not limited to, lumber, hardwood, stone, or brick.

**STANDARDS**

Gas tanks shall be permitted only when meeting Fire Code requirements as adopted by the City, when receiving approval from the Fire Department, or when receiving approval from the State of New Mexico LP Gas Bureau. Landscaping and suitable opaque screening in the form of a solid wall, fence or compact shrubbery is required to screen the tank from view from a public right-of-way.

**95. Crematorium**

**CLASSIFICATION**

A place used for the preparation and incineration of the human or animal deceased.

**96. Dispatch Service**

**CLASSIFICATION**

A business engaged in providing off-site services, where the business' primary offices, vehicles, and equipment are located on-site with little to no walk-in traffic. Services include, but are not limited to, cleaning and maid, plumbing, pest control, and locksmithing.

**97. Dry Cleaning Plant**

**CLASSIFICATION**

An establishment used for the cleaning of clothing, linen, and other textiles through a process involving the use of solvents. For drycleaning pick-up/drop-off service, see #82 Personal Services.

**98. Equipment Rental, Sales, or Repairs**

**CLASSIFICATION**

An establishment engaged in the repair, rental, and leasing of heavy construction equipment for off-site use.

Allowed in NH-3 when located on or adjacent to a collector or higher roadway.

**99. Film Staging or Production Studios**

**CLASSIFICATION**

An establishment engaged in the staging and/or recording of live, video, or audio productions including, but not limited to, music, commercials, motion pictures, and theatre performances.

**100. Funeral Home**

**CLASSIFICATION**

An establishment used for the storage of human bodies prior to their burial or cremation, which may also be used for the preparation of the deceased for burial and the display of the deceased and ceremonies and services connected with.

**101. Industrial Printing or Distribution**

**CLASSIFICATION**

An establishment engaged in the manufacturing and distribution of media to the public including, but not limited to, newspapers, books, and/or similar media.

**102. Manufactured Housing or Building Sales**

**CLASSIFICATION**

A building, structure, or lot used for the marketing, sales, and distribution of Manufactured Homes.

**103. Postal or Printing Services**

**CLASSIFICATION**

An establishment engaged in the retail sale of stationery products, and services related to packaging, mail, and printing media for walk-in consumers.

**104. Repair Shop**

**CLASSIFICATION**

An establishment engaged in the repair and service of small products including, but not limited to, watches, clocks, jewelry, small appliances and electronics, instruments, and cameras.

**105. Self-Storage Warehouse**

**CLASSIFICATION**

A structure or building with enclosed storage space, divided into separate compartments, that is provided for use by individuals or businesses in exchange for payment or rent.

**106. Wireless Communication Facilities**

**CLASSIFICATION**

Includes antenna, towers, communication structures, and other similar vertical structures.

**STANDARDS**

See **Sec. 38-11. Wireless Communication Facilities**.

## Cannabis-Related

**107. Cannabis Dispensary**

**CLASSIFICATION**

A specialized retail store that sells cannabis and cannabis-related products for medicinal or recreational use.

**STANDARDS**

Cannabis dispensaries shall comply with all State of New Mexico regulatory and licensing requirements. Cannabis retailers shall not be located within 300 feet from a school or daycare center that was in existence at the time the cannabis establishment was licensed, excepting commercial schools and schools of higher learning serving those 18 years and older. No cannabis retailer shall be located within 300 feet of another cannabis retailer without an approved Special Use Permit. On-site consumption of cannabis is limited to indoors where licensed and in compliance with State law and access to the cannabis consumption area is restricted to persons 21 years of age and older.

**108. Cannabis Production**

**CLASSIFICATION**

The growing and harvesting of cannabis for commercial purposes that occurs entirely or primarily within an enclosed structure and/or any type of processing or manufacturing of cannabis-based products, which operation is licensed by the State.

**109. Integrated Cannabis Business**

**CLASSIFICATION**

A licensed Integrated Cannabis Business or Vertically Integrated Cannabis Establishment (VICE) as permitted and regulated by the State. Operations exceeding 10 percent of total floorspace in an Integrated Cannabis Business must be individually allowed by the Use Chart (for example, Cannabis Dispensary and Cannabis Production) and any standards for any individual uses must be followed.

**STANDARDS**

Integrated cannabis businesses shall comply with all State of New Mexico regulatory and licensing requirements. Cannabis retailers shall not be located within 300 feet from a school or daycare center that was in existence at the time the cannabis microbusiness was licensed, excepting commercial schools and schools of higher learning serving those 18 years and older. No cannabis retailer shall be located within

300 feet of another cannabis retailer without an approved Special Use Permit. On-site consumption of cannabis is limited to indoors where licensed and in compliance with State law.

## Automotive and Transportation

### 110. Auto Sales or Rental

**CLASSIFICATION**

An establishment engaged in the sale, lease, or rental of new or used automobiles such as cars, motorcycles, and light-duty trucks, including ancillary uses such as minor vehicle repair and service, sales offices, and outdoor storage of vehicles.

**STANDARDS**

See **Sec. 38-8.E.5. Auto Storage and Salvage Yards** for screening requirements.

### 111. Auto Repair and Services (Major)

**CLASSIFICATION**

An establishment engaged in the general repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers including, but not limited to, body work, framework, welding, overall painting, and tire replacement and disposal.

**STANDARDS**

See **Sec. 38-8.E.5. Auto Storage and Salvage Yards** for screening requirements.

### 112. Auto Repair and Services (Minor)

**CLASSIFICATION**

An establishment engaged in minor repairs of engines, motor vehicles, or trailers that does not require the removal of the engine head or pan, engine, transmission, or differential of a vehicle, including, but not limited to, minor repair or maintenance, oil changing, and minor interior upholstery work.

**STANDARDS**

See **Sec. 38-8.E.5. Auto Storage and Salvage Yards** for screening requirements.

### 113. Car Wash

**CLASSIFICATION**

An establishment engaged in the washing, waxing or cleaning of a standard passenger automobile, in which the owner of the vehicle washes the vehicle or waits while the facility washes the vehicle ~~the vehicle~~ for a fee.

**STANDARDS**

Where permitted within the NH districts, this use shall be located on a Collector or higher designated roadway

### 114. Commercial Parking Lot or Garage

**CLASSIFICATION**

A lot or structure used for the parking of passenger vehicles with or without an assessed fee.

**STANDARDS**

Parking lots or garages must be within 500 feet of any office, commercial, or industrial use or zoning district. The parking area shall be suitably landscaped, paved and drained, lighted, and maintained free of debris.

See **Sec. 38-8.E. Required Screening** for screening requirements for all parking structures.

### 115. Heliport/Helistop

**CLASSIFICATION**

A designated space for the takeoff and landing of aerial vehicles, including helicopters and drones. This can range from simple, temporary setups with minimal facilities (helistops and drone launchpads) to more complex, permanent installations with extensive support services such as fueling, maintenance, and passenger terminals (heliports).

**STANDARDS**

Uses shall be in accordance with ~~federal~~the federal Airspace Protection Regulations, including 14 CFR, Part 77.

### 116. Passenger Transportation Terminal

**CLASSIFICATION**

A building or complex of buildings, parking garages or lots, and associated structures which provide access, activities, and facilities of for the use, support, and convenience of the public traveling by, but not limited to, airplane, bus, cab, and rail.

**STANDARDS**

Airports:

1. Land uses at the Las Cruces International Airport (LCIA) property will be in accordance with current City-Federal (Federal Aviation Administration) agreements and the adopted LCIA Master Plan. Parking, drainage, landscaping and other development standards are determined by the City Council through Chapter 7.5 of the Municipal Code, as amended, and Resolution 98-371, as amended. The LCIA Master Plan substitutes for a Special Use Permit. No special use permit is required.

2. Properties within 20,000 feet of an active runway at any airport will not be allowed to conduct land uses that would violate Federal Airspace Protection Regulations, including 14 CFR (Code of Federal Regulations), Part 77.

3. All other airports shall comply with 14 CFR, Part 77. Development standards, e.g., parking requirements, required runway paving standards, land uses will be determined as part of the Special Use Permit (SUP) review process. A Noise Exposure Study shall be submitted with the SUP application.

### 117. Salvage or Wrecking Yard

**CLASSIFICATION**

A lot or portion thereof used for the dismantling, wrecking, storage, sale, or dumping of junk motor vehicles or trailers for their parts.

**STANDARDS**

See **Sec. 38-8.E.5. Auto Storage and Salvage Yards** for screening requirements.

### 118. Semi-Truck Wash

**CLASSIFICATION**

An establishment engaged in the washing, waxing, or cleaning of a heavy-duty truck or semi-truck, in which the owner of the vehicle washes the vehicle or waits while the facility washes the vehicle ~~the vehicle~~ for a fee.

### 119. Truck, Trailer, Boat, and RV Sales or Rental

**CLASSIFICATION**

An establishment engaged in the sale, lease, or rental of new or used semi-trucks, trailers, boats, or RVs, including ancillary uses such as minor vehicle repair and service, sales offices, and outdoor storage of vehicles.

## Light Industrial

### 120. Animal Processing (Slaughterhouse)

**CLASSIFICATION**

A facility engaged in the slaughtering and processing of animals and the refining of their byproducts for sale or distribution.

### 121. Animal Processing (Taxidermy)

**CLASSIFICATION**

An establishment engaged in the preparing, stuffing, and mounting of the skins of animals.

### 122. Artisan Manufacturing

**CLASSIFICATION**

Small-scale manufacturing and related processes or activities conducted indoors – including but not limited to application, assembling, compounding, design, fabrication, growing, making, packaging, processing, sculpting, teaching, treating of crafts or products, or welding – often by an artist, artisan, or craftsperson working with ceramic, clay, electronics, metal, paper, plastic, stone, textiles, wood, or similar materials either by hand or with minimal automation or technology, including but not limited to 3D printing. This use includes incidental storage, wholesaling of products manufactured at the facility, and direct sales to consumers.

This use includes the production of beer, wine, or spirits associated with an approved Small Brewer's License as governed by Section 60-6A-26.1 NMSA 1978, an approved Winegrower's License as governed by Section 60-6A-11 NMSA 1978, or an approved Craft Distiller's License as governed by Section 60-6A-6.1 NMSA 1978. Annual production shall be limited by State statute. This use does not include alcohol sales. Alcohol sales associated with brewing on-site is regulated pursuant to the tap room or tasting room use. See #92 Tap Room or Tasting Room.

### 123. Data Center

**CLASSIFICATION**

A facility used to house and manage computer systems, servers, networking equipment, and other related components for the purpose of collecting, processing, storing, and disseminating large amounts of data.

**STANDARDS**

Noise attenuation measures are required to ensure noise levels do not exceed 55 dBA when measured at the property boundary adjacent to land zoned for an NH District.

### 124. Hazardous Chemical Manufacturing or Storage

**CLASSIFICATION**

A facility not elsewhere classified engaged in the manufacturing and development of chemical products by conducting a chemical process on organic or inorganic raw material whereby hazardous or toxic waste or byproducts are created and disposed of. This definition also includes the on-site storage of such products.

### 125. Manufacturing or Fabricating

**CLASSIFICATION**

An indoor facility, not elsewhere classified, engaged in the assembly, fabrication, production, packaging, or other industrial processing of products primarily from extracted or raw materials or the bulk storage and handling of such products and materials, or an industrial establishment having potential to produce limited smoke, noise, dust, glare, odors or vibration off-site. Such uses commonly include an office component. A warehouse or distribution center is not typically open to the public.

**STANDARDS**

In the LI District, Manufacturing or Fabricating uses shall not exceed 60,000 sq. ft. of enclosed building area.

All operations must take place inside a building; however, outside storage is permitted as described in **Sec. 38-8.E.3. Outside Storage**.

### 126. Warehouse or Distribution Center

**CLASSIFICATION**

A building or structure used for the storage of goods or products for wholesale, distribution, or transfer to another location via freight, truck, or other similar transit method. Such uses commonly include an office component. A warehouse or distribution center is not typically open to the public.

## Heavy Industrial

### 127. Above-Ground Storage Tanks for Hazardous Materials

**CLASSIFICATION**

A facility used for the above ground storage of flammable and combustible liquids, including compressed gases or liquified petroleum gas, for use, sale or wholesale, or distribution.

**STANDARDS**

Tanks shall be permitted only when meeting Uniform Fire Code requirements as adopted by the City of Las Cruces, when receiving approval from the Las Cruces Fire Department, or when receiving approval from the State of New Mexico LP Gas Bureau.

### 128. Energy Production or Refinement

**CLASSIFICATION**

A facility engaged in converting one or more energy sources, including, but not limited to water, fossil fuel, nuclear, or solar, into electrical energy for distribution and utilization.

### 129. Excavation~~traction~~ of Raw Materials

**CLASSIFICATION**

A facility engaged in the excavation, storage, and distribution of raw resources from the Earth, such as sand, gravel, minerals, lumber, or similar resources above ground.

**STANDARDS**

Such uses shall be a minimum of 400 feet from a residential district boundary or from an existing residential property.

## Animals and Agriculture

### 130. Animal Raising (Commercial Feed Lots)

**CLASSIFICATION**

A lot or parcel used for feeding livestock, poultry, or small animals for commercial purposes usually in lots, pens, ponds, sheds, or buildings where food is supplied primarily by means other than grazing, foraging, or other natural means. These operations meet the U.S. Environmental

Protection Agency's latest regulatory definition of a Concentrated Animal Feeding Operation (CAFO). The current definitions can be found at https://www3.epa.gov/npdes/pubs/sector_table.pdf.

**STANDARDS**

See Chapter 7 of the Las Cruces Municipal Code for additional requirements.

### 131. Animal Raising (General Agriculture)

**CLASSIFICATION**

The raising and breeding of animals or production of animal products as the principal use of the lot. Typical uses include grazing, ranching, dairy farming, poultry farming, and beekeeping in accordance with Chapter 7 of the Las Cruces Municipal Code. This use does not include slaughterhouses, feedlot operations, and any use included in #130 Animal Raising (Commercial Feed Lots).

**STANDARDS**

See Chapter 7 of the Las Cruces Municipal Code for additional requirements.

Minimum lot size for livestock is half ( ½) acre.

### 132. Animal Services (Indoor Only)

**CLASSIFICATION**

A facility engaged in the medical or surgical treatment, grooming, or overnight boarding or day care of animals within an enclosed building.

### 133. Animal Services (With Outdoor Pens)

**CLASSIFICATION**

A facility engaged in the medical or surgical treatment, grooming, or overnight boarding or day care of animals within enclosed indoor and outdoor spaces.

### 134. Commercial Crop Farming

**CLASSIFICATION**

An area used for the growing of farm products, vegetables, fruits, flowers, trees, and/or grain and including the necessary accessory structures or uses for raising, treating and storing products raised on the premises.

### 135. Indoor Agriculture

**CLASSIFICATION**

The commercial breeding, planting, nourishing, caring for, gathering, or processing of animals or plants, such as fruits, flowers, vegetables, or other similar plants, completely within an enclosed building or structure.

### 136. Plant Nursery

**CLASSIFICATION**

A facility for the growing, display, or sale of plant stock, seeds or other horticulture items, including the raising of plants outdoors or in greenhouses for sale either as food or for use in landscaping.

### 137. Stables or Training

**CLASSIFICATION**

A lot or portion thereof used for the commercial boarding and training of livestock, such as horses, mules, dogs, ponies, and donkeys, for hire by the public.

### 138. Wind or Solar Farm

**CLASSIFICATION**

A lot or parcel housing all necessary equipment, such as wind turbines and solar panels, to harness and convert solar and wind energies into electricity for sale or distribution.

## Sec. 36-4. Additional Dimensional and Building Design Standards

### A. All Development

1. Structures, Items, or Building Projections in Required Setbacks

   a) No structure, item, or building projection, whether a building permit is required or not, shall be permitted within the required setbacks except flagpoles, walls and fences, or decorative structures such as a bird bath.

      i) Flagpoles and similar freestanding vertical items exceeding 6 feet in height must be set back from the property line a distance at least equal to its height to ensure an adequate fall-zone.

   b) A maximum encroachment of six inches into the required side yard setback shall be permitted for the following items:

      i) Security lighting;

      ii) Decorative lighting fixtures;

      iii) Security bars around windows and doors;

      iv) Door hardware and required molding around doors;

      v) Canales and downspouts when canales are capped at the end, open along the top and drainage is directed through the downspouts to appropriate on-lot pond locations in either the front or rear of the property.

   c) The ordinary projection of, for example, porches, stoops, sills, scuppers, cornices, ornamental features, roof overhangs, fireplace chimneys, buttresses and wing walls shall not extend into the required setback area more than two feet.

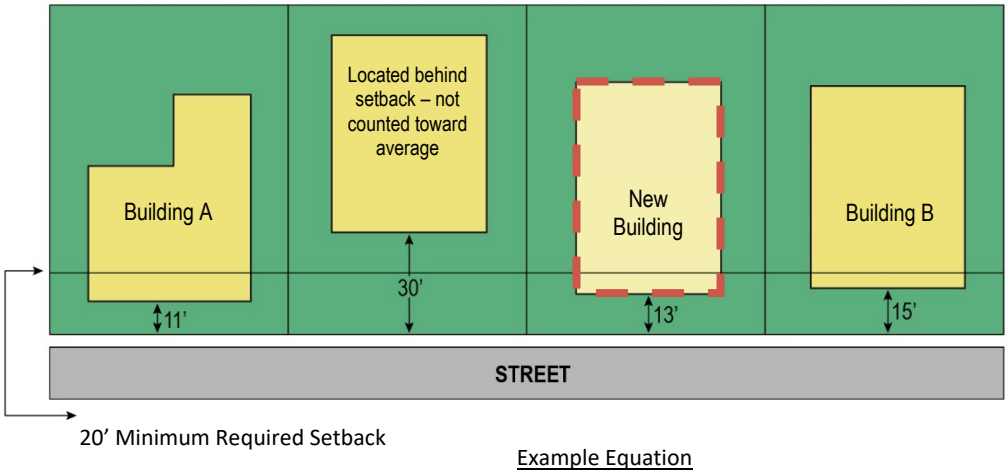
2. Right-of-Way/Easement Encroachments

   There shall be no permanent structures located on right-of-way or public ~~or private~~ easements without written approval of the governing agency.

3. Average Setbacks for Infill Areas

   When at least 40 percent of the lots on the same block face are developed, new buildings or additions to existing buildings may use the required front yard setback, or may extend into the front yard setback up to the average distance established by the existing buildings that are within the required setback.

**Figure 36-4-1. Average Setbacks for Infill Development**



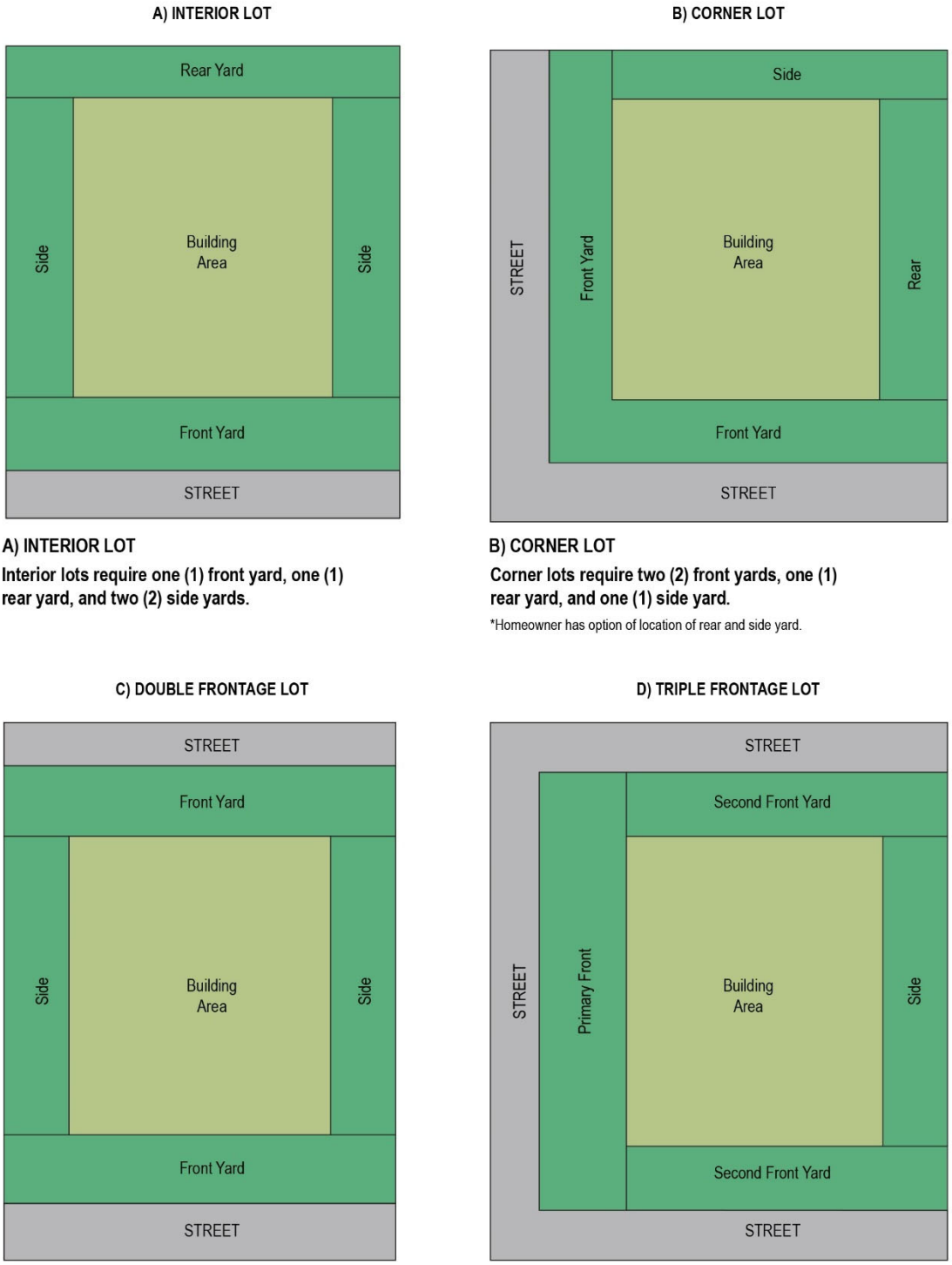

Example Equation

Building A 11' setback + Building B 15' setback = 26'

26' ÷ 2 = 13' setback is permitted for the New Building

4. Lot Requirements
    a) All side lines of lots shall be at approximately right angles to straight street lines and radial to curved street lines.
        i) The Development Review Committee may determine that a variation will provide a better street and lot layout (e.g., improved connectivity within a development, improved access to open space, lessened impact on adjacent properties).
    b) Every lot shall have direct access and at least 20 feet of frontage along a public street or other approved public access easement.
    c) As shown in **Figure 36-4-2. Yard Requirements** "B) Corner Lot", both frontages of a corner lot shall be considered a front yard.
5. Shipping Container Structures
    a) A shipping container structure is a large metal container originally designed for cargo transport and other intermodal freight containers that are reused for residential, retail, or other non-transportation purposes.
    b) Metal shipping containers are not allowed to be used as accessory structures in Zoning Districts, except in the case when the primary structure/dwelling is constructed using shipping containers.
    c) Said shipping containers used for storage purposes are permitted within the CR, Commercial/Retail District (Rural, Suburban, Urban), LI, Light Industrial District (Rural, Suburban, Urban), and HI, Heavy Industrial District (Rural, Suburban, Urban) provided they comply with all requirements of this **Sec. 36-4. Additional Dimensional and Building Design Standards**.
    d) Shipping containers are allowed on private property in all zones temporarily to store building materials and/or construction tools during construction pursuant to an active building permit on the same property or within a centralized location within a construction area. Said container(s) shall be removed upon completion of the project and/or issuance of a certificate of occupancy or completion.
    e) Shipping containers, PODS or similar "you pack" type moving containers are allowed within the front yard (driveway only) of residential uses for the purposes of packing/unpacking in preparation of or after a move to or from the subject property. Use of such containers shall be limited to 21 days (three weeks) after which the unit shall be removed from the property.

**Figure 36-4-2. Yard Requirements**




**A) INTERIOR LOT**

**Interior lots require one (1) front yard, one (1) rear yard, and two (2) side yards.**

**B) CORNER LOT**

**Corner lots require two (2) front yards, one (1) rear yard, and one (1) side yard.**

*Homeowner has option of location of rear and side yard.

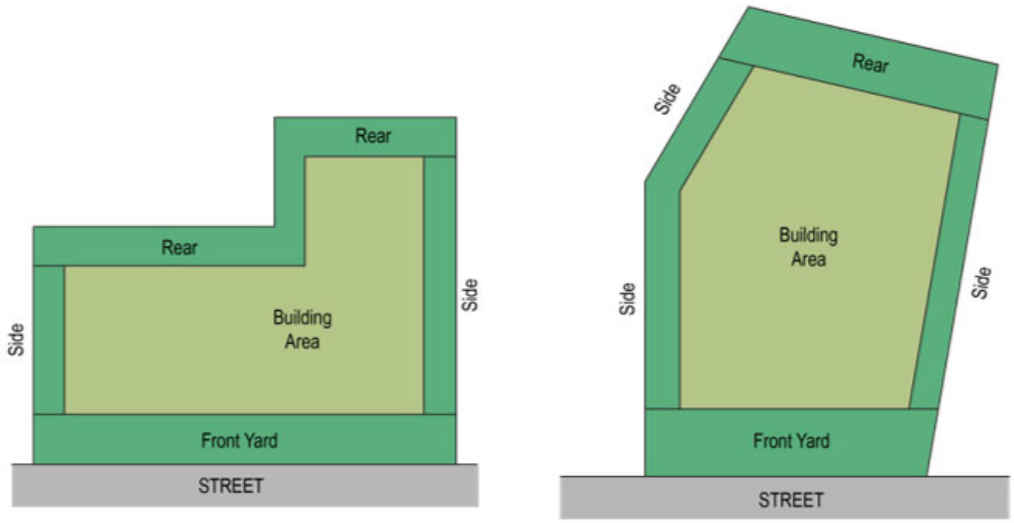
**C) DOUBLE FRONTAGE LOT**

**Double frontage lots require two (2) front yards, and two (2) side yards.**

**D) TRIPLE FRONTAGE LOT**

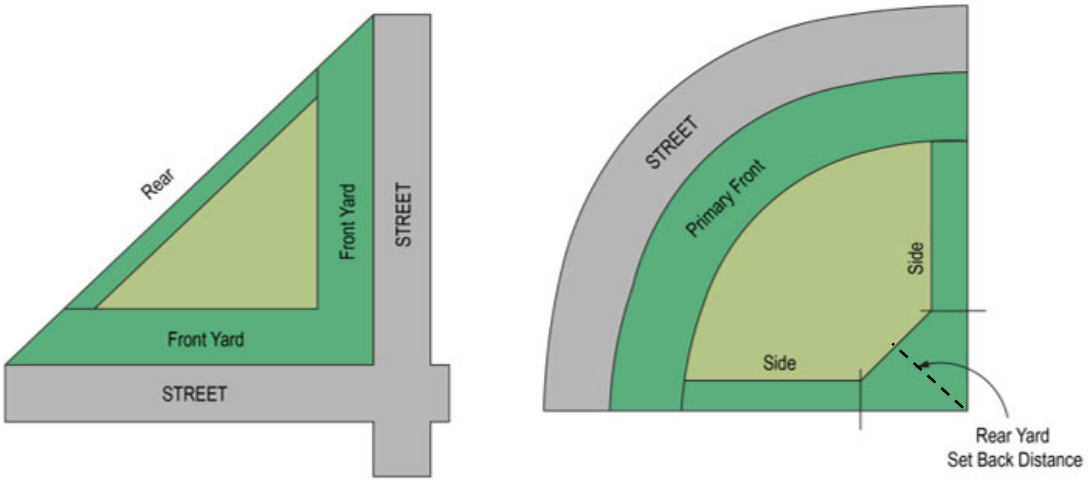
**Triple lots require three (3) front yards, and one (1) side yard.**

**Figure 36-4-3. Yard Requirements for Odd Shaped Lots**




**A) ODD SHAPED LOTS**

**On odd shaped lots, the rear yard is determined by the rear line that is most parallel to the front. This pentagonal-shaped lot would require one (1) front yard, (1) rear yard, and three (3) side yards.**




**B) TRIANGULAR LOT**

**This triangular lot would require two (2) front yards, one (1) rear yard.**

**C) PIE SHAPED LOT**

**This pie shaped lot requires calculation of the rear yard at a line measured from the corner, a distance of the required rear yard, mid-point between the two side property lines.**

## B. Single-Family Home, Duplex, Triplex, or Quadplex, and Townhouse Residential Development

1. Applicability

   The following requirements apply to all new Single-Family Home, Duplex, Triplex, or Quadplex, and Townhouse residential developments.

2. Accessory Structures

   a) The dimensional regulations in **Figure 36-4-4. Accessory Structure Requirements** shall apply to all Accessory Structures, with the exception of Accessory Structures associated with agricultural, farm, or equestrian uses on residential lots.

**Figure 36-4-4. Accessory Structure Requirements**

| Standard | Lots up to 19,999 sqft | Lots 20,000 sqft and greater |
|---|---|---|
| Maximum Floor Area of All Accessory Structures Combined | 1,100 sqft | 5% of the lot area |
| Maximum Height of Accessory Structures | Not to exceed the height of the Main Building | |
| Maximum Number of Accessory Structures | 3 | 4 (excluding agricultural barns) |
| Maximum Building Area Coverage | Main Buildings and Accessory Structures shall not exceed the allowable coverage percentage of the zoning district in which they are located. | |
| Minimum Front Setback | Carports shall be set back at least 5 feet from the front property line and shall not encroach into a utility easement unless ~~written approval from all affected utility companies is provided by property owner.~~a written affidavit and county clerk filing is completed. | |
| | Carports for RVs shall be set back at least 20 feet from the front building facade | |
| Minimum Side Setback | 3~~5~~' | 3~~5~~' |
| Minimum Rear Setback | 3~~5~~' | 3~~5~~' |

   b) An Accessory Structure shall not be utilized for human habitation except in the case of an Accessory Dwelling.

   c) No Accessory Structures may be permitted on a property without an associated primary residential use, except in the case of property used for agricultural, farm, or equestrian uses.

   d) No permit is required for Accessory Structures less than 120 square feet in floor area and less than 13 feet in height, unless it will be used as an Accessory Dwelling.

   e) Accessory Structures are prohibited within easements.

   f) Accessory Structures 120 square feet or larger shall be finished on the exterior with similar construction materials and similar coloring as the principal dwelling. Metal building material may be used, provided the accessory structure is of a same or compatible architectural style and colors as the principal dwelling.

   g) Any accessory structure in the front yard shall be outside of the front yard setback.

3. Carports

   a) For a carport visible from a public right-of-way, the carport design should be consistent with the main building.

   b) Carports in the front yard must be attached to the main building.

   c) A building permit is required for an attached carport, as it is an addition to the residence. If detached, then it is considered an accessory structure.

4. Dimensional Standards for Patio Homes and Townhouses

   No side yard setback is required for one side of Patio Homes or the interior side(s) of Townhouses, subject to the following:

   a) Lot widths for Patio Homes or Townhouses may be reduced to 20 feet. A zero-setback side shall not directly abut any other development or land use type.

   b) Exterior side yard setbacks (i.e., the side that is not the zero-setback side) must comply with the applicable zoning district requirements.

   c) Zero lot line development shall meet all adopted building and fire codes.

5. Cluster Development

   a) The purpose of cluster development is to provide open space in residential developments by allowing reductions in minimum lot areas or increases in densities. This approach allows the preservation of natural features, decreases impervious cover, supports housing variety, and creates unique neighborhoods.

   b) Cluster developments are allowed in any Suburban Character Area or Rural Character Area.

   c) The minimum size of a cluster development shall be five acres.

   d) Only uses permitted in the district may be used in the development.

   e) A minimum of 30 percent of the land must be preserved as either natural or Usable Open Space. This land must be in addition to any required park dedication. The preserved land must be accessible to all residents. The preserved area must be designated on the plat and remain open space indefinitely.

   f) There is no minimum lot area, width, or depth, but a minimum 20-foot street frontage is required for every lot.

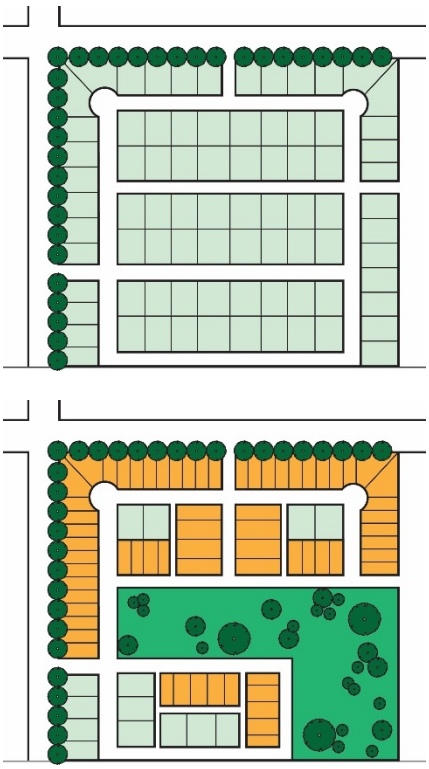
   g) Method of Calculation

      i) Calculate the number of dwelling units permitted on the site based on the zoning district under typical development practices.

      ii) If at least 30 percent of the site is conserved, then the number of dwelling units may be up to 50 percent more than the number of units that would have been permitted with traditional development.

      iii) If at least 50 percent of the site is conserved, then an increase of 100 percent in the number of units is permitted.

   **Figure 36-4-5. Conventional (Top) and Cluster (Bottom) Development**



   h) The City may agree to accept ownership and maintenance responsibilities of the conserved land if the area is at least 2 acres in contiguous area.

6. Residential Anti-Monotony Standards

   Adjacent single-family, duplex, or townhome housing facade designs must differ from one another by at least four of the following design options (exception: residential units that are attached by at least one common wall are not be considered adjacent units for purposes herein stated).

   a) Surface material;

   b) Color of house;

c) Reversed floor plans;

d) Roofing styles;

e) Variation in building heights;

f) Ornamental fixtures (e.g., vigas, portales, latias);

g) Location and shape of windows and doors;

h) Variation in front yard patios, walls, garages, etc.;

i) Variation in front yard setbacks. A minimum five-foot variation must be used to qualify for this item. All setback requirements as determined by zoning district still apply in this instance.

**Figure 36-4-6. Residential Anti-Monotony Examples**




Development on a Block

- Varying front yard setbacks
- Location of doors
- Reversed floor plans
- Variation in front yard patios, walls, garages



Elevations

- Roofing styles
- Ornamental fixtures
- Color of house
- Varying building heights

## C. Nonresidential, Mixed-Use, and Multi-Family Development

1. Applicability

   The following requirements apply to all new nonresidential, mixed-use, and multi-family development.

   a) Exception: The requirements herein do not apply within the HI, Heavy Industrial District (Rural, Suburban, Urban).

2. Building Materials

   a) At least 80 percent of the collective walls of a building shall be finished in one or more of the following building materials:

      i) Stucco or plaster;

      ii) Brick, stone, cast stone, rock, marble, granite, glass block, or tile;

      iii) Glazing;

      iv) Split-face concrete block, poured-in-place concrete, and tilt-wall concrete.

         a. Any use of concrete products shall have an integrated color and be textured or patterned.

         b. Tilt-wall concrete structures shall include reveals, punch-outs, or other similar surface characteristics to enhance the wall on at least 10 percent of each wall;

      v) Exterior insulation and finish system (EIFS); and/or

      vi) Fiber cement siding (e.g., HardiePlank).

   b) Side and rear walls shall be finished in a similar color as the front of the building.

3. Front Facade Entry Requirements

   a) A front facade shall be articulated and designed to present a distinctive entry presence, emphasizing the building's entry point along the facade.

   b) Each building shall provide a sheltered or recessed entry.

   c) The primary entrance shall front a public street with a walkway connecting to a front sidewalk.

4. Building Articulation

   a) Facade Articulation

      i) Buildings with facades over one hundred feet in length shall incorporate wall projections or recesses, or changes in wall plane a minimum of two feet in depth a maximum of every seventy-five feet.

      ii) The offset(s) may be divided and distributed throughout the length of the wall if the applicant demonstrates, to the satisfaction of the Community Development Director, that the intent of this section has been met by providing an equal or better aesthetic result from the public right-of-way.

   b) Height Articulation

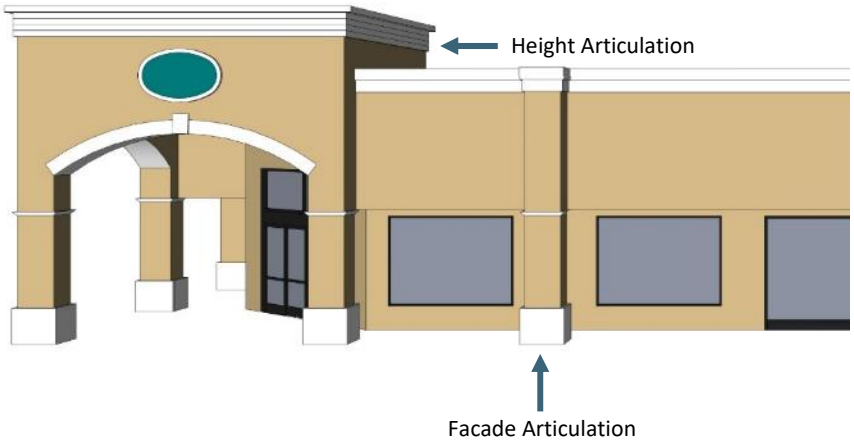
      i) Buildings with roofline adjacent to or visible from a public right-of-way shall not extend in a continuous plane for more than one hundred feet without offset of the roof plane. Rooflines must be visually broken up by providing articulations in the facade of buildings, change in the height of portions of roofs, or change in color, material, or forms.

      ii) The offset(s) may be divided and distributed throughout the length of the wall if the applicant demonstrates, to the satisfaction of the Community Development Director, that the intent of this section has been met by providing an equal or better aesthetic result from the public right-of-way.

      iii) Alternatively, vertical articulation requirements may be met with an enhanced decorative cornice along the entire length of the facade if the applicant demonstrates, to the satisfaction of the Community

Development Director, that the intent of this section has been met by providing an equal or better aesthetic result from the public right-of-way.

**Figure 36-4-7. Example of Horizontal and Vertical Articulation**




5. Architectural Features

   All building walls shall incorporate at least three of the architectural features listed in **a)** and/or **b**) below. Building walls greater than 100 feet in length or buildings greater than 30 feet in height shall incorporate an additional item from Subsection **b**) below.

   a) Awnings, canopies, canales, vigas, portales, latias, ornamental cornices, pillar posts, decorative light features, integrated planters or water features, or other similar building element features as approved by the Community Development Director.

   b) Arcades, covered porches, alcoves, porticos, varied wall surfaces, enhanced building wall materials, or other similar building elements as approved by the Community Development Director.

6. Additional Multi-Family Residential Amenities

   The following requirements also apply to all new multi-family and mixed-use development with 13 or more units. These requirements are in addition to recreational amenities included in **Sec. 38-5. Parks, Trails, and Open Space**.

   a) Amenities and open space must be provided in accordance with the following:

      i) 13-49 units: One balcony, patio, or roof terrace for at least 20 percent of all units; one courtyard or community garden; and one amenity from the list below.

      ii) 50-99 units: One balcony, patio, or roof terrace for at least 35 percent of all units; two courtyards and/or community gardens; and two amenities from the list below.

      iii) 100-199 units: One balcony, patio, or roof terrace for at least 50 percent of all units; three courtyards and/or community gardens; and three amenities from the list below.

      iv) 200+ units: One balcony, patio, or roof terrace for at least 65 percent of all units; four courtyards and/or community gardens; and four amenities from the list below.

   b) Potential Amenities

      i) Swimming pools (1,000 sqft minimum) with a cooling deck;

      ii) At least four grills with shaded seating areas;

iii) Shade structure covering at least 1,000 sqft of recreation space;

iv) Bike storage area (1,000 sqft minimum) and repair station;

v) Child play area (minimum 3,000 sqft with play structure or other similar facility);

vi) Splash pad (1,000 sqft minimum);

vii) Dog park (5,000 sqft minimum) with a vinyl-coated chain link fence at least 5 feet in height; grass, wood chips, or a combination of the two for groundcover; and at least one bag dispenser and waste bin along the perimeter for every 2,500 sqft of park;

viii) Regulation size volleyball, basketball, tennis, or other similarly related playing court;

ix) Golf putting green (1,000 sqft minimum);

x) Fitness center/weight room (500 sqft minimum);

xi) Business center (500 sqft minimum);

xii) Media room (500 sqft minimum); and/or

xiii) Other similar amenities determined to the comparable in providing quality of life benefits to residents, as determined by the Community Development Director.

## Sec. 36-5. Zoning Procedures

### A. Zoning Map Amendments

1. The Zoning Map may be amended (i.e., rezonings, boundary changes, or district changes) in accordance with NMSA 3-21-6, as amended.
2. Application Procedures

   Application submittal requirements for a zoning map amendment include, but are not limited to, the following:

   a) Official zoning application that meets the following conditions:

      i) The application shall be signed by all property owners of record (including all trustees of an estate or all persons that have a specific "power of attorney" for the subject property as recorded in the County Clerk's Office). Persons who have an equitable interest in the subject property, but no legal title, shall not be deemed the "owners of record" of said property for purposes of this Code. The Community Development Director may reject any application if the ownership of the subject property is not clearly established.

      ii) Any pending litigation or any Final Order entered by any Court of Law regarding the ownership of the subject property shall be disclosed by the applicant at the time the application is submitted.

      iii) The application shall include a copy of notification letter to the noticed area and copy of minutes (summary or verbatim) from meeting pursuant to **Sec. 34-3.H. Early Notification and Meeting Requirements** (if applicable).

      iv) The application shall include a development statement that describes the intended use and characteristics of the proposed development.

      v) The applicant may opt to provide a Site Plan for consideration.

   b) Submittal fee,

   c) Notarized affidavit,

   d) Copy of property's survey and legal description:

      i) An accurate and complete boundary survey shall be made of the land to be rezoned. Property lines shall be shown, giving the bearings in degrees, minutes, and seconds.

      ii) Distances shall be shown in feet and hundredths.

      iii) Curved boundaries or lines on the survey shall provide sufficient data to enable the re-establishment of curves on the property.

      iv) The location and description of all monuments set or found shall be included where applicable.

      v) The survey must indicate the area of the requested zoning district(s), including survey descriptions of the various district boundaries.

   e) Copy of site plan (if applicable),

   f) A drainage facilities plan, environmental impact statement and/or other items not listed above may be required by the Community Development Director, the Planning & Zoning Commission, or the City Council.

   g) Description and justification of requested variances (if applicable),

   h) Request and justification to waive submittal requirements (if applicable), and

**Figure 36-4-1. Zoning Map Amendment Process Summary**



i) For rezoning requests of areas 40 acres or larger, a Master Development Plan in accordance with **Sec. 37-3.A. Master Development Plan** shall be submitted in conjunction with the rezoning application.

j) Verification that the Future Development Map (FDM) is consistent with the proposed Zoning Map Amendment. If the FDM is not consistent with the proposed Zoning Map Amendment, then documentation showing the FDM changes with justification shall be provided.

3. Criteria for Review and Decisions

a) In considering all Zoning Map amendment requests, the decision-maker shall determine if the request is consistent with the goals of the Comprehensive Plan to enhance livability, prosperity, and environment for the shared benefit of current and future generations and the zoning code which allows flexibility and context sensitive design.

b) The decision-maker shall consider present and future needs and promote the health, safety, order, prosperity, and general welfare of the people. It shall also promote efficiency and economy in the process of development.

c) The decision-maker shall encourage the proper use and development of land, shall seek to create and maintain an aesthetic setting, and protect and preserve the quality of the water, air, and other environmental, natural, historical and cultural resources for the City.

4. Review and Recommendation – Community Development Director

The Community Development Director shall review the submittal and prepare a written staff report with recommendations, which shall be provided to the Planning & Zoning Commission and City Council along with the Zoning Map Amendment. The report shall recommend that the amendment be approved, conditionally approved, disapproved, or postponed.

5. Public Meeting and Notice Required

a) No zoning regulation, restriction or boundary shall become effective, amended, supplemented or repealed until after a public meeting at which all parties in interest and citizens shall have an opportunity to be heard.

b) Notice shall be provided in accordance with **Sec. 34-3.G. Notice for a Public Meeting**.

6. Public Meeting and Recommendation – Planning & Zoning Commission

a) Following a recommendation by the Community Development Director, the Planning & Zoning Commission shall hold a public meeting on the proposed amendment, then provide a report and recommendation to the City Council to approve or deny the proposed amendment.

b) The recommendation may be made by a simple majority vote of the Planning & Zoning Commission.

7. Public Meeting and Final Action – City Council

a) Following receipt of the report and recommendation from the Planning & Zoning Commission, the City Council shall hold a public meeting to approve or deny the proposed amendment.

b) Zoning Map Amendments may be approved by a simple majority vote of the City Council.

i) Exception: In accordance with NMSA 3-21-6.C, if the owners of 20 percent or more of the area of the lots and of land included in the area proposed to be changed by a zoning regulation or within 100 feet, excluding public right-of-way, of the area proposed to be changed by a zoning regulation, protest in writing the proposed change in the zoning regulation, the proposed change in zoning shall not become effective unless the change is approved by a majority vote of all the members of the City Council (as opposed to a majority of those in attendance with a quorum).

ii) Special Use Permits shall not be considered a zoning district change.

iii) A Zoning Variance may be approved as part of a zoning district change request.

iv) The City Council is also authorized to remand the request back to the Planning & Zoning Commission for further study and consideration.

8. Recordation of Zoning Map Amendment

When approved by the City Council and the 30-calendar day appeal period has expired, the zoning district change shall be recorded and shown on the Zoning Map.

## B. Site Plans

1. Purpose

   The purpose of the Site Plan is to facilitate the review of proposed improvements to property. Through Site Plan review, the City and other jurisdictional agencies can effectively apply the standards of this Development Code and other applicable development standards to multi-family, mixed-use, and nonresidential development.

2. Applicable Regulations

   All Site Plans must conform to applicable requirements and regulations found in the following documents:

   a) This Development Code;

   b) Fire Code;

   c) Building Code; and

   d) The Technical Manual and resources outlined in **Sec. 34-1.F. Technical Manual and Other Technical Resources**.

3. Site Plan Applicability

   The following applications require Site Plan approval:

   a) A request for approval to construct or expand any building.

      i) Exception: A Site Plan is not required if a Building Permit is not required.

   b) A request for approval of a Planned Unit Development district (see **D. Planned Unit Developments (PUDs)**, unless otherwise exempted in this Development Code or in the ordinance adopting the Planned Unit Development district; or

   c) A request for approval of a Special Use Permit (see **C. Special Use Permits (SUPs)**).

4. Approval Process

   a) Administrative Site Plan

      i) The Community Development Director is responsible for approving a Site Plan with no associated Special Use Permit if it meets all the requirements of this Development Code.

      ii) The Community Development Director may authorize review and approval of a Site Plan simultaneously with review and approval of a Building Permit, Landscape Plan, Lighting Plan, or other plans required by this Development Code.

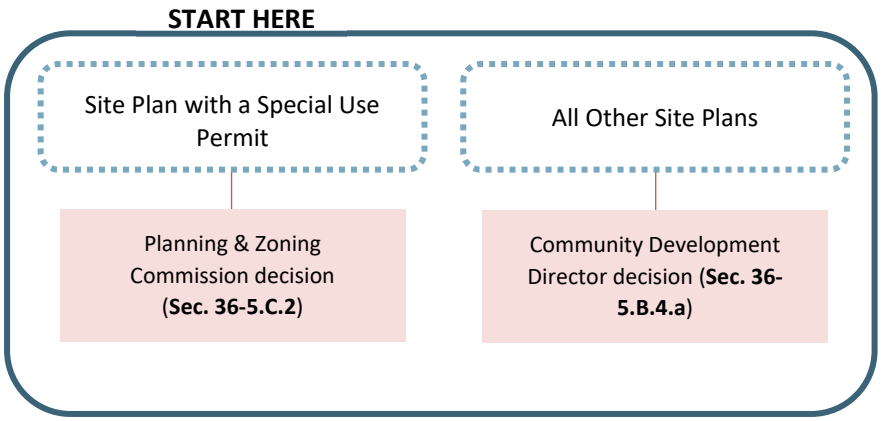
      iii) Community Development Director Action

      The Community Development Director will inform the applicant of their decision, identify any deficiencies, and provide instructions for the resubmittal of corrected plans, if applicable.

   b) Site Plan with a Special Use Permit (SUP)

      A Site Plan submitted as part of an SUP shall require a public meeting and decision by the Planning & Zoning Commission.

**Figure 36-5-2. Site Plan Types and Processes Summary**




5. Use of Existing Building

   a) If the Site Plan request involves the use or expansion of existing buildings or structures, the Building Official may conduct an inspection of buildings or structures to be utilized or expanded to determine the adequacy of the buildings or structures to support the proposed use and to make recommendations for improvements to the buildings or structures.

   b) The decision-maker may conditionally approve of the Site Plan subject to compliance with the Building Official's recommendations, and the Building Official may withhold a Certificate of Occupancy if the buildings or structures do not comply with the conditions.

6. Site Plan Effect of Approval

   a) By approving a Site Plan, the City authorizes the applicant to submit Construction Plans for approval of a Building Permit.

   b) During the time the Site Plan remains valid, the City will not apply additional requirements concerning development features shown on the Site Plan (e.g., building placement, streets, drives, parking, landscaping, or screening).

7. Amendments to Administratively Approved Site Plans

   The Community Development Director may approve changes requested by the applicant to a Site Plan that was originally approved administratively without requiring the applicant to submit a new Site Plan if the Director determines that the modified Site Plan substantially conforms to the previously applied Site Plan; otherwise, a new Site Plan submittal is required.

8. Amendments to SUP Site Plans

   For amendments to Site Plans approved as part of an SUP, see **Sec. 36-5.C.2.f) Revisions to an Approved SUP**.

9. Dormant Site Plans and Site Plan Expiration

   a) A Site Plan approval expires two years from the approval date unless an applicant or property owner demonstrates Progress Toward Completion within the same phase (if applicable) or a new Site Plan is approved for the property.

      i) A Site Plan associated with an SUP expires in conjunction with the SUP. See **Sec. 36-5.C.3. SUP Expiration**.

   b) If a Site Plan expires, all vesting claims shall also expire on the property, and the applicant must submit a new Site Plan subject to the regulations in place at the time.

10. Revocation of Site Plan Approval

    The City may revoke approval of a Site Plan if the City determines that the applicant has not met the conditions of approval or if the Site Plan contains, or is based upon, incorrect information or if approval was obtained using fraud or deceit.

11. Additional Development, Site Modifications, or Redevelopment

    Following the completion of improvements shown on an approved Site Plan, additional development, site modifications, or redevelopment of the site shall be permitted subject to the approval of a revised Site Plan, which shall be considered a new project and shall require submittal and approval of a revised Site Plan.

12. Site Plan Submittal Requirements

    The Site Plans shall be at a scale that adequately represents the information as determined by the Community Development Director. The plans shall be prepared electronically in PDF format or other approved format. Plans shall be legible and of a good quality, with no limit to the number of sheets used. The plans shall indicate the following:

    a) Title of Site Plan.

    b) Total acreage of site.

    c) Date of preparation, north arrow, written and graphic standard engineering scale.

    d) Identification of site by lot, block, subdivision, if applicable.

    e) A statement of ownership, signed by the property owner.

    f) Name and address of property owner.

    g) Name and address of applicant, if applicable.

    h) Name and address of consulting firm or representative, if applicable.

    i) Location and type of all land uses.

    j) All site improvements with all setbacks indicated.

    k) All easements of record.

    l) Dimensions of all buildings.

    m) Existing and proposed vehicular circulation systems, including parking areas, storage areas, service areas, loading areas, and major points of access, including street pavement width and right-of-way.

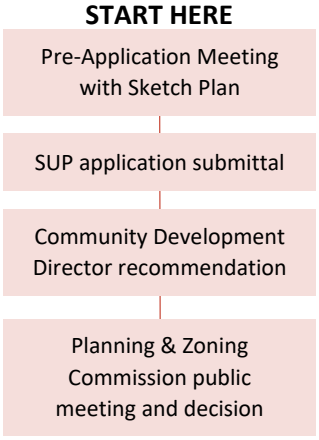
    n) A landscaping plan, to include the location, size, common name, and biological name of all landscaping materials.

    o) Pedestrian and bicycle circulation system and its relation to surrounding circulation.

    p) Where applicable, location and arrangement of all open space, common recreational space, and private open space.

## C. Special Use Permits (SUPs)

**Figure 36-5-3. SUP Process Summary**




1. General Provisions

   a) A Special Use Permit (SUP) is required to allow a use that is not permitted by right in a zoning district and requires review and approval by the Planning & Zoning Commission to determine impacts on the surrounding area. Uses eligible for SUP approval are designated in **Figure 36-3-2. Permitted Use Chart**.

   b) Approval of an SUP is not a zoning district change.

2. Review Procedures

   The procedures for such approval are as follows:

   a) Pre-Application Meeting

      Any proposed SUP shall first be reviewed at a pre-application meeting scheduled and held by the Community Development Department. The submittal of a Sketch Plan is required for the pre-application meeting for an SUP. See **Sec. 34-3.B. Pre-Application Meeting** for more information.

   b) Application Procedures

      i) An official application for an SUP shall be obtained from the Community Development Department. Application requirements shall include, but not be limited to:

         a. A letter of intent stating the following:

            i. A statement of the purpose and use of the property,

            ii. All property improvements to be made, and

            iii. A development schedule indicating the approximate dates at which construction or phases of construction will begin and end.

         b. An accurate and complete boundary survey shall be made of the land to be developed. Property lines shall be shown, giving the bearings in degrees, minutes, and seconds. Distances shall be shown in feet and hundredths. Curved boundaries or lines on the survey shall provide sufficient data to enable the re-establishment of curves on the property. The location and description of all monuments set or found shall be included where applicable. If only part of the property is to be used for the Special Use, the limits or boundary of the Special Use shall be described in addition to the entire property.

         c. A Site Plan in accordance with **B.12. Site Plan Submittal Requirements**.

         d. Architectural renderings or artistic drawings. The drawings shall be provided electronically in PDF format. Drawings shall be legible and of a good quality, with no limit to the number of sheets used. The drawings shall illustrate the following:

            i. All new development illustrating all exterior building materials and colors.

            ii. All new development illustrating relationships to neighboring uses, including site lighting.

            iii. Sign location, materials, color, size, shape, and lighting.

         e. A drainage facilities plan, environmental impact statement and/or other items not listed above may be required by the Community Development Director, or the Planning & Zoning Commission.

         f. Copy of early notification letter to the defined noticed area and copy of minutes (summary or verbatim) from any required meeting pursuant to **Sec. 34-3.H. Early Notification and Meeting Requirements** (if applicable).

      ii) Application materials that are illegible and/or otherwise of a low quality will not be accepted.

iii) A portion of the submittal requirements may not be required in all cases. Upon receipt of a written request justifying the deletion of required information, the Community Development Director may waive any submittal requirement. The Planning & Zoning Commission may require additional items and resulting information in addition to the submittal requirements as per this section. Additional items and/or information requested by staff may include, but are not limited to, the need for early notification to a neighborhood group(s) and/or defined noticed area. Additional requests shall be justified in writing. The City Council may require additional information before acting on an appeal.

c) Community Development Director Recommendation

The Community Development Director shall review the submittal and prepare a written staff report with recommendations, which shall be provided to the Planning & Zoning Commission along with the SUP. The report shall recommend that the SUP be approved, conditionally approved, disapproved, or postponed.

d) Public Meeting and Notice

A public meeting shall be held by the Planning & Zoning Commission for all Special Use Permits with notice in accordance with the provisions of **Sec. 34-3.G. Notice for a Public Meeting**.

e) Review and Approval Procedures

The Planning & Zoning Commission may deny an SUP request or may grant final approval including the minimum conditions listed in **Sec. 36-3.B. Use Classifications and Use-Based Standards**. Also, approval may be granted with additional conditions imposed which are deemed necessary to implement the Comprehensive Plan, to ensure compatibility with surrounding development, and to ensure that the purpose and intent of this Code are met to protect and provide safeguards for persons and property in the vicinity. Any applicable development conditions in addition to those required by this Development Code shall be noted on the Certificate of Occupancy. Appeal of a Planning & Zoning Commission decision may be made in accordance with **Sec. 34-3.F. Appeals**.

f) Revisions to an Approved SUP

Any major revision proposed to the SUP and Site Plan shall require resubmittal of the SUP and Site Plan in their entirety. Minor revisions that do not affect the overall intent of the SUP and Site Plan may be approved by the Community Development Director. Major revisions to the Special Use Permit and Site Plan shall include, but are not limited to:

i) Any change in land use,

ii) A 15 percent cumulative increase in land use or building square footage,

iii) A 15 percent cumulative increase in vehicular traffic on any roadway segment or intersection,

iv) Any increase in size of the SUP area,

v) Any reduction in screening, screening buffer yards, and setbacks at the Special Use boundary line, and

vi) A 15 percent cumulative increase in the buildable area for structures including signs.

g) Recording of the SUP

After approval, the SUP shall be issued by the Community Development Director and shall include all information, conditions, reference to site plans, and other provisions of the SUP. The SUP shall be filed in the City Clerk's Office. The SUP shall not become effective until adequate evidence of filing in City records has been provided to the Community Development Director.

3. SUP Expiration

Unless otherwise specified by the Planning & Zoning Commission's approval, an SUP will expire if the applicant does not obtain a Certificate of Occupancy within 36 months of the Planning & Zoning Commission's approval.

## D. Planned Unit Developments (PUDs)

1. General Provisions

   a) Planned Unit Developments (PUDs) are intended to promote development that is consistent with the comprehensive plan and that otherwise cannot be accommodated by the Development Code using existing mechanisms (e.g., Flexible Development Standards or Zoning Variances). The PUD process is not intended as a method to avoid the Code's standards.

   b) An applicant shall not be granted a deviation to the standards without providing a public benefit to the community that exceeds the standard of typical development and requirements. Examples of such benefits may include but are not limited to sustainable development, housing affordability/variety, enhanced open space and recreational amenities, public art, historic preservation, enhanced accessibility, public facilities (e.g., school site) or other development features that implement the vision of the Comprehensive Plan.

   c) All contiguous property owned or legally controlled by the applicant shall be included within the PUD.

2. Review Procedures

   a) Authorization

      A PUD is a zoning district change and is not permitted by-right in any zoning district. The procedures and requirements in this section shall govern the development of a PUD.

   b) Process

      Each PUD shall require the following steps:

      i) Step 1: Pre-Application Meeting with a Sketch Plan;

      ii) Step 2: Concept Plan with zoning action;

      iii) Step 3: Platting, if required; and

      iv) Step 4: Site Plan(s)

   c) Step 1: Pre-Application Meeting

      Any proposed PUD shall first be reviewed at a pre-application meeting scheduled and held by the Community Development staff. The submittal of a Sketch Plan is required for the pre-application meeting for a PUD. See **Sec. 34-3.B. Pre-Application Meeting** for more information.

   d) Step 2: Concept Plan

      i) Concept Plan Purpose

         The Concept Plan is intended to serve as a tool that can assist in identifying the appropriateness of a proposed development within the context of its surroundings. The Concept Plan forms the basis for approval of the PUD.

**Figure 36-5-4. PUD Process Summary**



ii) Concept Plan Application Submittal

The Concept Plan and supplemental application material shall be submitted to the Community Development Department no later than 60 calendar days prior to the date of the regular meeting of the Planning & Zoning Commission. The application is subject to a determination of completeness by City Staff (see **Sec. 34-3.C.4. Complete Application** for more information).

iii) Approval Criteria

The Concept Plan may be approved only if it includes the following findings:

a. The proposed construction and use of the PUD will not be detrimental to the health, safety, or welfare of the community or adjacent neighborhood;

b. There is or will be adequate sewage capacity, roadway capacity, bicycle and pedestrian connectivity and accommodations, energy supply, and potable water supply to serve the PUD at the time a certificate of occupancy or letter of acceptance, as applicable, is to be issued;

c. The PUD conforms to the intent, goals, objectives, policies, and standards of all City plans and codes (unless deviations are specifically noted);

d. The uses proposed, including their density and intensity, are appropriate to the character of the neighborhood and will have a positive aesthetic effect on the neighborhood in which the PUD will be located; and

e. The proposed uses will not subject surrounding properties and pedestrians to hazardous traffic conditions.

iv) Community Development Director Recommendation

The Community Development Director shall review the submittal and prepare a written staff report with recommendations, which shall be provided to the Planning & Zoning Commission along with the Concept Plan. The report shall recommend that the Concept Plan be approved, conditionally approved, disapproved, or postponed.

v) Concept Plan Public Meetings and Approval

The Planning & Zoning Commission and City Council shall act upon the Concept Plan application in accordance with **A. Zoning Map Amendments**. The applicant or applicant's representative shall be present at the public meetings for the proposal to be considered. If the applicant or representative is not at the public meetings, the Concept Plan shall be postponed until the next regular meeting. The decision-makers may impose additional conditions as part of the terms of approval.

vi) PUD Shown on Zoning Map at Concept Plan Approval

If the Concept Plan is approved or conditionally approved by the City Council, the PUD shall be shown on the Zoning Map as a PUD replacing the existing zoning districts.

vii) Concept Plan Effective Period

The approved Concept Plan shall be effective for a period of five years. If a Site Plan for all or part of the area has not been approved by the expiration of the five-year period, the Concept Plan shall expire and a new Concept Plan will be required. If the property owner desires to revert the property to its previous zoning (or any other zoning designation besides the approved PUD), a rezoning in accordance with **A. Zoning Map Amendments** is required.

viii) Concept Plan Submittal Requirements

A request for review of a Concept Plan shall include the following information:

a. Official Application and Development Statement, including the identification of the district upon which the PUD regulations are based unless otherwise stated in the PUD;

b. Submittal fee;

c. Waiver request and justification to delete submittal information, if applicable;

d. Descriptions of deviations to planning-related development standards and the public benefits to be provided;

e. Association by-laws (may be submitted with each Site Plan);

f. Concept Plan. The following information shall be provided on the Concept Plan and supporting maps and drawings:

i. Name of Concept Plan.

ii. Name, address, and telephone number(s) of property owner(s), developer(s), and consultant(s) preparing the Concept Plan.

iii. Detailed area map showing the surrounding area within one-half mile and the PUD in relationship to adjacent parcels, existing roadways, and natural or constructed features that may impact or be impacted by the PUD.

iv. North arrow, date of preparation, and written and graphic standard engineering scale.

v. Legal description.

vi. Boundary lines of Concept Plan area with approximate length of lines and boundary lines of phases.

vii. For each lot, parcel, or tract, list proposed land uses and acreage and show the building envelope within which each structure will be located:

(a) Maximum number of dwelling units and maximum density.

(b) Maximum square footage of nonresidential uses.

viii. Proposed screening, screening buffer yard, and setback distances along the PUD property line.

ix. Existing land uses and zoning on adjacent lots, parcels, or tracts.

x. Name of adjacent subdivisions (including the filing date, book, and page numbers), property owners, and zoning. If not subdivided, name of property owner.

xi. Twenty-foot contour intervals minimum or as appropriate.

xii. Proposed alignment of roadways and how they relate to the Comprehensive Plan and the Active Transportation Plan and the impacts created on the area road network, neighborhood, and other land uses. Impact data shall include the anticipated traffic volume generated by the proposed development, identification of the affected road network, and the additional traffic volumes associated for each road. If required, provide a Traffic Impact Study, including a roadway improvement schedule, consistent with the requirements of **Sec. 38-2.G. Traffic Impact Analysis**) and based on the latest recommendations from the Institute of Traffic Engineers.

xiii. Thoroughfare System: Identification of adjacent roadways and other transportation lines by functional classification; proposed location, length, width of all roadways, bikeways, trails, walkways, and any other transportation lines. Identify existing and proposed classification of roadways as per City of Las Cruces Design Standards, the Comprehensive Plan, and the Active Transportation Plan.

xiv. Proposed parks, trails, open spaces, and other amenities.

xv. Proposed public improvements.

xvi. Location and sizes of existing and proposed utilities.

xvii. Significant natural features, such as arroyos and 100-year floodplains.

xviii. All easements.

xix. Tabular Information:

(a) Land uses of each parcel and phase (if applicable).

(b) Total acreage of the PUD and acreage for each land use for the development and by phase (if applicable).

(c) Number of dwelling units and density for the development and by phase (if applicable).

(d) Total square footage of nonresidential uses for the development and by phase (if applicable).

(e) Total acreage for open space, private and public facilities, and right-of-way for the development and by phase (if applicable).

(f) Maximum height of proposed structures for each parcel and phase (if applicable).

xx. Phasing plan. If developing in phases, a phasing plan shall identify the phase in which (or date by which) public facilities (e.g., trails, amenity centers, recreational facilities, other improvements) will be provided.

xxi. Approval block signifying the final approved Concept Plan to be signed by the Community Development Director upon approval by the City Council and resolution of all outstanding staff comments.

g. Other Impact Studies, if determined by the Planning & Zoning Commission as necessary to present clear and compelling evidence regarding development impacts, are to be submitted prior to City Council consideration:

i. Impacts on any public facilities outside the PUD area. Impact data shall include expected population generated by the proposed development, identification of public facilities (e.g., utilities, parks, that are anticipated for use by said population and level of capacity of said utilized public facilities).

ii. Impacts on air quality, specifically solid particulates known as PM10. Impact data shall include identification of proposed uses that generate air pollution substances into the environment and the projected impact.

iii. Impacts on views and noise to adjacent property. Impact data shall include identification of proposed uses that generate excessive noise, anticipated maximum height for proposed structures, identification of existing physical features that are viewed from the PUD and adjacent properties, and how these views will be altered by the PUD. Proposals to mitigate impacts shall be provided.

iv. Geological and Soils Hazards. Report on the Geologic and Soils Hazards in relation to slope conditions, drainage problems and suitability for septic system use, if applicable, as identified by the Soil Survey of Doña Ana County Area, New Mexico. This report shall also include either an aerial photograph or a map with existing contours at an appropriate interval to establish accurate ground contour of the PUD area.

e) Step 3: Platting

If platting is required, all plats and plans must be submitted and approved in accordance with **Sec. 37-2. Subdivision Procedures**.

f) Step 4: Site Plan

i) Site Plan Purpose

The purpose of a Site Plan is to identify the detailed site layout and features for a PUD development or phase of PUD development.

ii) Site Plan Application Submittal and Review

a. Upon approval of the Concept Plan and completion of any required platting process, the applicant may submit a Site Plan in accordance with **B. Site Plans** for part or all of the land area covered by a Concept

Plan for Community Development Director consideration. The Director may defer the Site Plan to the Planning & Zoning Commission and City Council for any reason.

b. Alternatively, an applicant may choose to submit a Site Plan along with the Concept Plan, which may be approved by the Planning & Zoning Commission and City Council.

iii) Site Plan Deviations from an Approved Concept Plan

Any substantial change proposed on a Site Plan that would affect the approved Concept Plan shall require re-submittal of the Concept Plan in its entirety. Minor changes are those changes that are not substantial and do not affect the overall intent of the Concept Plan, which may be approved by the Community Development Director; however, the Director may determine that any proposed change should be heard at a public meeting before the Planning & Zoning Commission and City Council. Substantial changes to the Concept Plan are subject to the same requirements as the original application. Substantial changes shall include but are not limited to:

a. Any change that would increase the intensity of the land uses;

b. A 15 percent cumulative increase or decrease in residential density;

c. A 15 percent cumulative increase or decrease in nonresidential square footage;

d. Any change in private incentives and public benefits;

e. Increase in size of property;

f. Any reduction in screening, screening buffers, and setbacks at the PUD property line;

g. A 15 percent cumulative increase in the buildable area for structures, including signs; and

h. A 15 percent cumulative reduction in open space.

iv) Approval Criteria

No findings are required except that the Site Plan conforms to the Concept Plan and all standards established by this Development Code and the identified base zoning district unless specifically indicated otherwise within the PUD.

## E. Building Permits and Certificates of Occupancy

1. No permit for the construction of a new building, fence, wall, sign, or any other structure that requires a Building Permit shall be issued until the lot is part of a plat of record, approved by the City and filed with the County. This requirement does not apply to additions or repairs.
2. No building or premises hereafter erected or structurally altered shall be used, occupied, or changed in use or occupant until a Certificate of Occupancy has been issued by the Building Official, stating that the building or proposed use of the building/premises complies with the City's adopted construction and safety codes and the provisions of this Development Code.

## F. Zoning Variances

**Figure 36-5-5. Zoning Variance Process Summary**




1. General Provisions

   a) In accordance with NMSA 3-21-8 and this section, the Planning & Zoning Commission may authorize a Zoning Variance from this **Chapter 36. Zoning Regulations** as outlined herein.

   b) Zoning Variances may only be used to waive or modify dimensional requirements, such as setbacks, building heights, or lot coverage. Zoning Variances shall not modify permitted uses or use-based standards.

   c) The applicant bears the burden of proof in establishing the facts that may justify a Zoning Variance.

   d) The granting of a Zoning Variance does not establish precedence for future determinations.

2. Review Procedures

   The procedures for such approval are as follows:

   a) Any proposed Zoning Variance request shall first be reviewed at a pre-application meeting scheduled and held by the Community Development Department. See **Sec. 34-3.B. Pre-Application Meeting** for more information.

   b) Applications shall be submitted to the Community Development Director. The application is subject to a determination of completeness by City Staff (see **Sec. 34-3.C.4. Complete Application** for more information).

   c) The Community Development Director shall review the submittal and prepare a written staff report with recommendations, which shall be provided to the Planning & Zoning Commission along with the application. The report shall recommend that the application be approved, conditionally approved, disapproved, or postponed based on the criteria outlined below.

   d) A public meeting before the Planning & Zoning Commission is required. The Planning & Zoning Commission shall approve, conditionally approve, disapprove, or postpone the request.

   e) Approval Criteria

      i) The Planning & Zoning Commission shall consider the following criteria:

         a. The proposed Zoning Variance is not contrary to the public interest;

         b. Where, owing to special conditions, a literal enforcement of the zoning ordinance will result in unnecessary hardship;

         c. That the spirit of the zoning regulations is observed and substantial justice done; and

         d. That the goals and policies of the Comprehensive Plan are implemented.

      ii) No Zoning Variance may be granted that results in undue hardship upon another parcel of land.

      iii) A Zoning Variance shall not be granted to relieve a self-created hardship.

      iv) The relief granted shall be to the minimum degree required to alleviate such hardship.

      v) The Planning & Zoning Commission shall not grant a Zoning Variance unless it finds, based upon evidence, that each of the conditions and standards in this section have been met.

   f) The Planning & Zoning Commission may impose such conditions, limitations, and safeguards as it deems appropriate upon the granting of any Zoning Variance. Violation of any such condition, limitation or safeguard shall constitute a violation of this Development Code.

## G. Nonconformities

1. Purpose

   The purpose of this section is to regulate land uses, lots, structures, and site features that were legally established at the time of their creation but that have been made nonconforming due to a change in the City's regulatory environment (i.e., legal nonconforming). The regulations herein are intended to reduce or eliminate these nonconformities over time.

2. Applicability

   These regulations apply to any land use, lot, structure, and/or site feature that was legally established but has since become nonconforming to the regulations in place.

3. Illegal Nonconformities

   Any land use, lot, structure, and/or site feature that was established in violation of the regulations at the time is prohibited and shall be considered a violation of this Development Code. The provisions included in this section do not apply to illegal nonconformities.

4. General Provisions

   a) Authority to Continue

      Any nonconformity that legally existed on or before the Effective Date of this Development Code that becomes nonconforming upon the adoption of this Development Code or past or future amendments may be continued, subject to the regulations of this section.

   b) Repairs and Maintenance

      Nothing in this Development Code shall prohibit the routine operation and maintenance of legal nonconformities in such a manner as to not exacerbate any existing nonconformity.

   c) Change in Ownership or Tenancy

      Nonconforming status runs with the land and is not affected by changes in tenancy, ownership, or management.

   d) Determination of Legal Nonconforming Status

      The burden of proving that a nonconformity legally exists is the responsibility of the subject owner. The Community Development Director is authorized to determine whether reliable evidence of nonconforming status has been provided by the subject owner. Resources for such evidence include but are not limited to recorded plats, aerial photography, or utility billing records.

   e) Nonconformity Legalization

      The Planning & Zoning Commission may use the Zoning Variance process to bring any nonconformity into compliance, subject to the requirements of **F. Zoning Variances**.

5. Nonconforming Lots

   A nonconforming lot is a lot that does not meet the current dimensional requirements established in **Sec. 36-2. Zoning Districts**. Any platted lot is deemed a conforming lot. Any variations to the dimensional requirements may be modified through the Flexible Development Standards.

6. Nonconforming Uses

   a) A nonconforming use is a land use that is not permitted in the zoning district in which it is located, or that does not meet the use-based standards outlined in **Sec. 36-3.B. Use Classifications and Use-Based Standards**.

   b) If a nonconforming use is discontinued for a period of at least 24 months, the use shall not resume except in full conformance with this Development Code. For the purpose of this paragraph, to "discontinue" shall mean to intentionally terminate operations of the nonconforming use.

c) Any nonconforming use that does not involve a permanent type of structure or operation that is moved from the premises shall be considered to have been discontinued, regardless of intent.

d) A nonconforming use shall not be expanded, except that the Community Development Director may authorize the expansion of a nonconforming use within an existing structure.

7. Nonconforming Structures

a) A nonconforming structure is a building or other construction that does not meet the building height, setbacks, design, or other structural requirements.

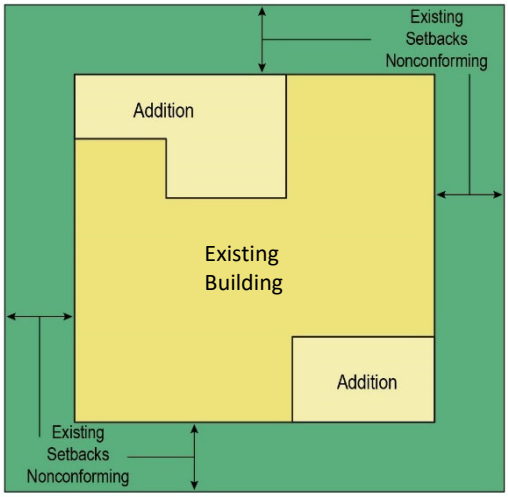
b) A structure or portion thereof may be altered to decrease its nonconformity as determined by the Community Development Director.

i) A mobile home or recreational vehicle (RV) used as a residence may be replaced if the unit is being replaced by a manufactured house, site-built house, or safer mobile home. If the replacement residence is a mobile home, for safety reasons, the replacement mobile home shall have accessible bedroom windows, the appropriate number of properly located and working smoke detectors, and an effective residential fire extinguisher. Furthermore, the replacement dwelling unit shall not be located on the property to create a nonconformity that did not previously exist.

c) A nonconforming structure may be expanded; however, the expansion must conform to the Development Code standards in place at that time and shall not result in increased or additional nonconformities.

i) A building with nonconforming setbacks shall be permitted additions within the extension of existing building lines. Such additions may not be larger than 50 percent of the building. See **Figure 36-5-6. Nonconforming Setbacks and Additions**.

**Figure 36-5-6. Nonconforming Setbacks and Additions**




d) Reconstruction of nonconforming structures or portions amounting to less than 50 percent of the existing square footage is permitted if the nonconformity is not enlarged in volume, area, or footprint.

e) Voluntary removal or destruction of a nonconforming structure or portion amounting to 50 percent or more of the existing square footage shall require either complete removal of the structure or its reconstruction in conformance with existing regulations.

f) Involuntary damage to or destruction of a nonconforming structure (e.g., fire, winds, or other calamity) may be rebuilt, reconstructed, or restored on the same footprint of the original structure plus any addition or expansion that is allowed by and conforming to the applicable zoning district. Such reconstruction is permitted as long as it begins within 24 months of the loss and complies with all other applicable zoning, development, and building codes.

g) A nonconforming structure may be moved to another location on the lot, provided that the moving will make it nonconforming to an equal or a lesser extent. A nonconforming structure shall not be moved to an off-site location unless the nonconformity is eliminated through the relocation.

8. Nonconforming ~~Site Features~~Change in Land Use

a) ~~A nonconforming~~ Change in land use is defined as an increase or decrease in the intensity of land use. Intensity is determined by the number of car parking stalls required for a particular use as found in section 36-3. A nonconforming use may be changed to a less restrictive conforming use, i.e., a use that is allowed in the zoning district and that requires fewer parking stalls. A nonconforming use may be changed to a more restrictive

conforming use, i.e., a use that is allowed in the zoning district and that requires more parking stalls, only if the additional parking stalls are provided along with the necessary drainage and landscaping.~~site feature is an improvement to a site, such as landscaping, screening, or parking, that no longer meets the current requirements.~~

~~b)Each section within this Development Code includes applicability provisions to indicate when compliance is required, typically upon an expansion or change in use.~~

# Chapter 37. Subdivision Regulations

## Sec. 37-1. General Provisions

### A. Title

This chapter shall be known and shall be cited as the "Subdivision Regulations" of the City of Las Cruces, New Mexico.

### B. Purpose

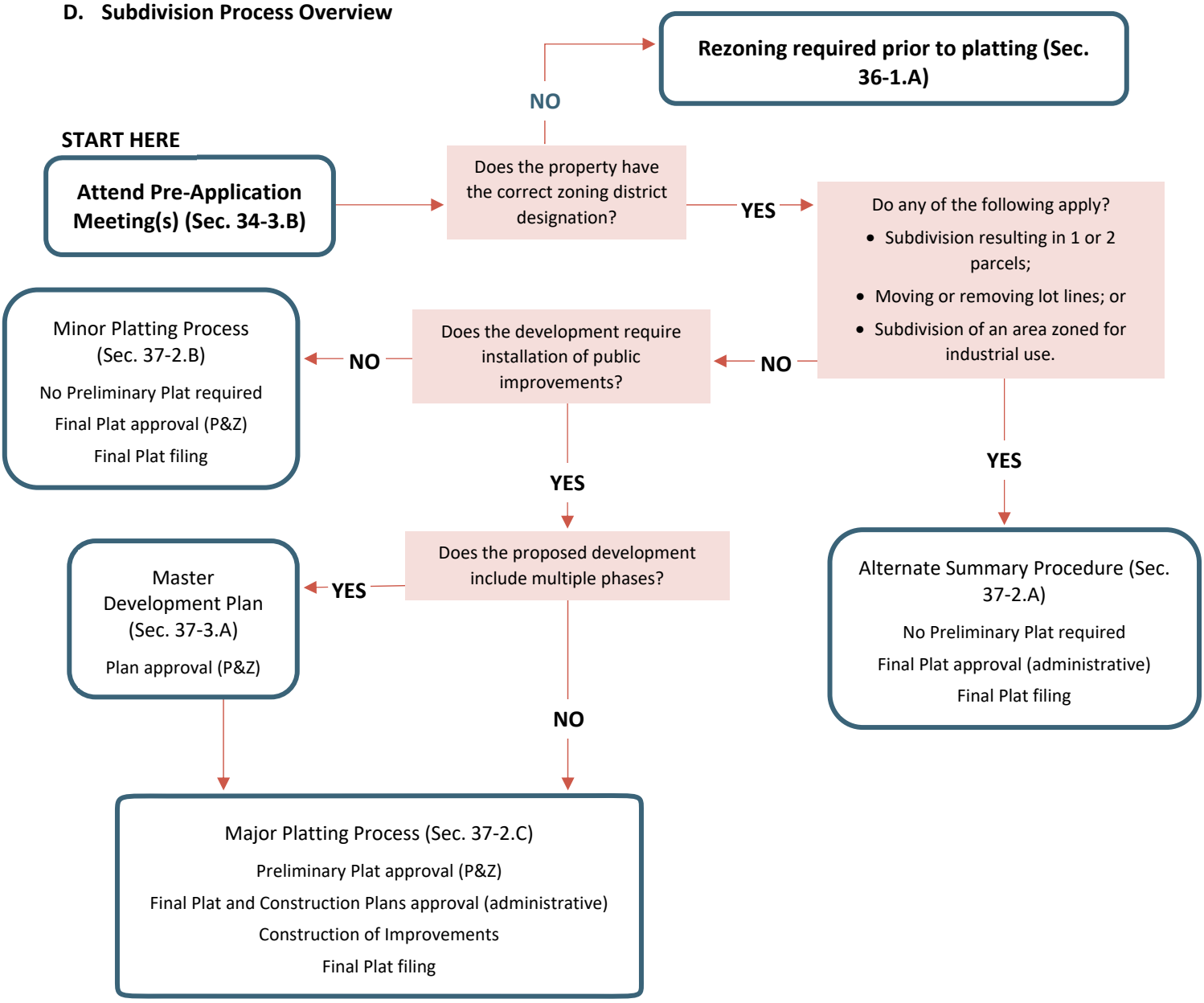
The purpose of this section is to promote the health, safety, convenience, and general welfare of the residents of the City through the implementation of a readable and understandable set of subdivision regulations outlining the processing of subdivision applications. More specifically, provisions of this section are designed to achieve the following objectives in newly subdivided areas:

1. Ensure orderly, efficient, and integrated growth and development within the City pursuant to guidelines established by the elements of the Comprehensive Plan and all other applicable City policies, rules, and regulations;
2. Promote proper street location, width, and design to facilitate multi-modal circulation and to minimize adverse growth impacts in accordance with the Comprehensive Plan, Active Transportation Plan, and City design standards;
3. Provide for proper right-of-way dedication and vacation practices;
4. Provide for the protection and preservation of natural resources and the promotion of natural beauty within the City;
5. Uphold the interests of public safety and quality of life;
6. Ensure that the proposed development is suitable for a given parcel of land, based on its location and environmental characteristics; and
7. Strive for a customer service approach to subdivision application processing.

### C. Applicability

1. This chapter applies to anyone wishing to:
   a) Divide a parcel of land into two or more parts; or
   b) Eliminate or adjust lot lines between two or more existing parcels; or
   c) Dedicate or vacate right-of-way; or
   d) Annex an unplatted parcel into the City limits.
2. Failure to comply with these regulations, including the transfer or sale of such land prior to approval and recording of a necessary plat with the County Clerk's Office, or the improper recording of a plat in violation of this chapter, shall be subject to the penalties outlined in **Sec. 34-1.H. Violations and Enforcement**.

## D. Subdivision Process Overview



## Sec. 37-2. Subdivision Procedures

### A. Alternate Summary Procedure

1. Purpose

   The purpose of the Alternate Summary Procedure is to allow an expedited administrative review of certain applications in accordance with NMSA 3-20-8.

2. Applicability

   a) The Community Development Director is hereby authorized to consider approval of the following:

      i) Subdivisions of not more than two parcels of land;

      ii) Resubdivisions where the combination or recombination of portions of previously platted lots does not increase the total number of lots; or

      iii) Subdivisions of two or more parcels of land in areas zoned for industrial use (i.e., the LI, Light Industrial District (Rural, Suburban, Urban) or the HI, Heavy Industrial District (Rural, Suburban, Urban)).

   b) Such submittals may include the dedication of public right-of-way but shall not include the vacation of dedicated rights-of-way.

   c) Submittals must be in substantial conformity with these Subdivision Regulations, demonstrating compliance with the Code and any approved Flexible Development Standards and Zoning Variances.

3. Submittal and Consideration

   a) If the Alternate Summary Process will be used more than once during the platting process, applicants must first submit a Master Development Plan for Planning & Zoning Commission approval (see **Sec. 37-3.A. Master Development Plan**).

   b) Applicants shall submit a Final Plat (see **Sec. 37-3.D. Final Plat**) for consideration and approval.

   c) Where two or more contiguous ASPs are located, public improvements must be installed prior to the filing of the Final Plat.

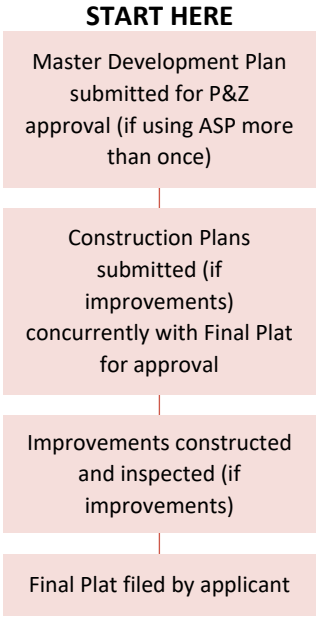
   d) If public improvements will be installed, the applicant shall submit Construction Plans concurrent with the submittal of a Final Plat. Upon approval of Construction Plans and the Final Plat, improvements shall be constructed and inspected.

      i) All improvements must be installed throughout the area included in the Master Development Plan prior to the filing of the Final Plat (unless Performance Security is provided for all remaining improvements in accordance with **Sec. 37-4.C.1.a**) or Substantial Completion of the development in accordance with **Sec. 37-4.D**).

   e) Approval by this Alternate Summary Procedure shall be endorsed on the plat or the instrument of conveyance.

   f) Any application without any formal submission within one year of the last submission will automatically expire.

**Figure 37-2-1. Alternate Summary Procedure Summary**



## B. Minor Platting Process

1. Purpose

   The purpose of the Minor Platting Process is to allow an expedited review of plats that do not require the installation of any public improvements.

2. Applicability

   The Minor Platting Process may be utilized for any plat that meets all of the following requirements:

   a) Does not meet the requirements for the Alternate Summary Procedure, and

   ~~b)~~ Does not require the installation of public improvements.

3. Submittal and Consideration

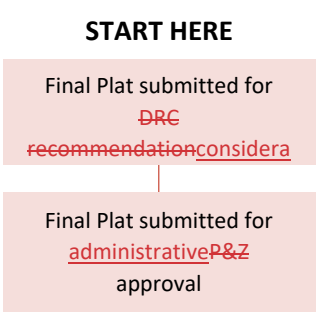
   a) Applicants shall submit a Final Plat (see **Sec. 37-3.D. Final Plat**) for consideration and approval.

   ~~b) The Planning & Zoning Commission shall conduct a public meeting (unless the public meeting is waived by the applicant in accordance with NMSA 3-20-7) and provide notice in accordance with **Sec. 34-3.G. Notice for a Public Meeting**. The Commission shall approve or disapprove the plat within 35 calendar days of the Official Submittal Date.~~

   ~~c)~~b) Following approval of the Final Plat, the plat shall be filed and recorded with the County Clerk's Office.

   ~~d)~~c) Any application without any formal submission within one year of the last submission will automatically expire.

**Figure 37-2-2. Minor Platting Process Summary**




## C. Major Platting Process

1. Purpose

   The purpose of the Major Platting Process is to accommodate more substantial subdivisions that include the installation of public improvements.

2. Applicability

   The Major Platting Process shall be used for any plat that does not meet the requirements for the Alternate Summary Procedure or the Minor Platting Process.

3. Submittal and Consideration

   a) The applicant shall submit a Preliminary Plat for consideration in accordance with **Sec. 37-3.B. Preliminary Plat**.

   b) Following Preliminary Plat approval, the applicant shall submit a Final Plat for consideration in accordance with **Sec. 37-3.D. Final Plat** and Construction Plans for consideration in accordance with **Sec. 37-3.C. Construction Plans**.

   c) Following approval of the Construction Plans, the applicant may begin site grading and installation of public improvements. Improvements shall be inspected in accordance with **Sec. 37-4.C. Installation and Acceptance of Public Improvements**.

   d) Following completion and inspection of the public improvements (or the provision of Performance Security and other requirements outlined in **Sec. 37-4.C.1.a)**), applicants may file the Final Plat and Building Permits may be issued.

**Figure 37-2-3. Major Platting Process Summary**



i) Final Plats may be filed and Building Permits may be issued prior to completion of all required improvements upon determination of substantial completion (see **Sec. 37-4.D. Substantial Completion**).

e) Any application without any formal submission within one year of the last submission will automatically expire.

## D. Plat Vacations

1. City ~~The Planning & Zoning Commission may~~Council may vote to vacate or partially vacate any filed plat upon the owners' request, in accordance with NMSA 3-20-12.

2. City Council~~The Planning & Zoning Commission~~ may require that streets dedicated to the City in the original plat shall continue to be dedicated to the City; alternatively, the rights-of-way may be vacated as outlined in **E. Right-of-Way Abandonment**.

## E. Right-of-Way Abandonment

1. Initiation

   Right-of-way abandonments may be initiated by the adjacent property owner(s) or by the City Council ~~Planning & Zoning Commission~~ if the Council~~Commission~~ determines that the right-of-way abandonment will not interfere with the interest of public health, safety, and welfare.

2. Submittal

   Right-of-way abandonments shall be prepared as a Final Plat for the right-of-way to be vacated and the affected adjacent lots in accordance with **Sec. 37-3.D. Final Plat**.

3. Division of the Land to be Abandoned

   Generally, the abandoned land will be divided in equal proportions and joined via plat with the adjacent properties. The Community Development Director shall review the plat that originally dedicated the right-of-way, access considerations, and adjacent property owners' requests to determine the final division.

4. Utility Easements

   If there are utility lines in rights-of-way that are to be abandoned, a utility easement will be required in lieu of right-of-way or relocation. In accordance with NMSA 3-20-13, the rights of any utility already existing shall not be affected by any full or partial abandonment.

5. Right-of-Way Abandonment Approval Process

   a) Administrative Review and Recommendation

      Right-of-way abandonment requests shall be reviewed and recommended by City Staff in accordance with **Sec. 37-3.D. Final Plat**.

   b) ~~Dual Planning & Zoning Commission and~~ City Council Decision

      i) The ~~Planning & Zoni~~City Council~~ng Commission~~ shall conduct a public meeting to review the abandonment request, recommendations from City Staff, the presentation from the petitioner or the petitioner's representative, and from any interested citizens. Action shall be in the form of approval, denial, or modification.

      ~~ii) The same public meeting process shall be followed by the City Council. Approval by both entities is required for right-of-way abandonment.~~

   c) Any necessary zoning map amendments (i.e., rezonings to align with new lot lines) shall be processed in conjunction with the abandonment.

6. Right-of-Way Dedications

   For standalone right-of-way dedications, see **Sec. 38-2.D. Private Streets**.

## Sec. 37-3. Plat and Plan Types

### A. Master Development Plan

1. Master Development Plan Purpose

   a) The purpose of the Master Development Plan process is to advance the goals and objectives of the City's Comprehensive Plan and to address a variety of environmental and social issues in an area being proposed for future development.

   b) A Master Development Plan is considered part of the planning process in which the proposal is viewed as a conceptual tool reflecting the ideas and thoughts for future development. Approved Master Development Plans shall be used as a general guide to land development with successive steps established for specific plans that shall be consistent with the adopted Master Development Plan.

   c) The Master Development Plan process is designed to guide future land development and transportation patterns.

2. Master Development Plan Required

   a) A Master Development Plan shall be required when any of the following criteria apply:

      i) A development is to be divided into various phases.

      ii) A request for annexation is made (see **Sec. 34-4. Annexation Process**).

      iii) When an applicant proposes to utilize the Alternate Summary Procedure more than once.

   b) A Master Development Plan may be omitted at the discretion of the Community Development Director for residential developments consisting of no more than two phases or~~n~~ forty~~ten~~ or fewer acres~~, with 30 or fewer lots.~~

   c) A Preliminary Plat may be submitted simultaneously with the Master Development Plan. A Final Plat shall not be submitted at the same time as the Master Development Plan or the Preliminary Plat.

   d) Said Master Development Plan shall be prepared by, and have the seal of, a Professional Engineer, Surveyor, or Registered Landscape Architect licensed in the State of New Mexico. The survey shall be prepared using the City Coordinate System or approved coordinate system as outlined in the Minimum Standards for Surveying in New Mexico.

   e) The Master Development Plan must include the entire planned development. Future phases for adjacent properties may be identified on the Master Development Plan.

3. Submittal of a Master Development Plan Application

   a) Following a pre-application meeting (**Sec. 34-3.B**) and any required early notification (**Sec. 34-3.H**), an applicant may submit the Master Development Plan application.

   b) The Master Development Plan and supplemental material shall be submitted to the Community Development Department no later than 45 calendar days prior to the day of the next regular meeting of the Planning & Zoning Commission for approval consideration.

   c) Applications shall be subject to a Determination of Completeness (**Sec. 34-3.C.4**).

   d) Any application without any formal submission within one year of the last submission will automatically expire.

4. Consideration of a Master Development Plan Application

   a) Administrative Review and Recommendation

      The DRC shall review and recommend the application in accordance with **Sec. 34-3.C. Application Processing**.

   b) Planning & Zoning Commission Action

i) Agendas shall be posted and public notice provided prior to a public meeting before the Planning & Zoning Commission in accordance with **Sec. 34-3.G. Notice for a Public Meeting.**

ii) The Planning & Zoning Commission shall review the Master Development Plan, comments received from the DRC, and presentations from the applicant or the applicant's representative and from any interested citizens.

iii) Action from the Planning & Zoning Commission shall be in the form of approval, conditional approval, postponement, or disapproval. Action from the Planning & Zoning Commission shall be recorded and published in accordance with **Sec. 34-3.D. Notice of Decision**.

iv) It is the requirement of the Planning & Zoning Commission that no Master Development Plan shall be reviewed unless either the applicant or the applicant's representative is present at the Planning & Zoning Commission public meeting. If neither party is present at the public meeting, the Master Development Plan will be postponed until the next regular Planning & Zoning Commission meeting.

c) Effect of Master Development Plan Approval

Upon approval of the Master Development Plan, the developer may submit to the Community Development Department any zoning applications, Preliminary Plats, Construction Plans, or Final Plats as necessary and applicable, that reflect the objectives of the approved Master Development Plan.

d) Effective Term and Expiration

i) The approval of the Master Development Plan shall be effective for a period of five years. The Master Development Plan shall expire five years from the date of approval unless one of the following applications has been approved, in accordance with the Master Development Plan for all or part of the master-planned area:

a. Preliminary Plat or Final Plat

b. Building Permit

c. Other development application

ii) Prior to the expiration date, the applicant may submit a request for extension of approval for up to one year, if desired. The request will require review by the Community Development Director based on current requirements and approval by the Planning & Zoning Commission. The Community Development Director or Planning & Zoning Commission may revise requirements based on projected needs or growth around the master-planned area, including infrastructure improvements related to signals, road network, streetlighting, etc.

iii) If no subdivision is approved and constructed within 10 years, then the subdivision will follow current standards for development.

e) Revisions to an Approved Master Development Plan

Any substantial change to the Master Development Plan will require resubmittal of the plan in its entirety and may trigger the need for a noticed area meeting at the discretion of the Community Development Director. Minor modifications shall be reviewed and considered by the Community Development Director. Substantial changes to the Master Development Plan shall require a new application in accordance with the standards at the time of application. Substantial changes shall include, but are not limited to:

i) Any major change in land use or use intensity (e.g., shifting or increasing drainage areas, adding a trail easement);

ii) Modifications of vehicular traffic circulation on public streets or roadway network changes;

iii) Increase in residential density; or

iv) Any change in the Master Development Plan that is determined by the Community Development Director to be substantial.

f) Appeals

Any appeals shall be processed in accordance with **Sec. 34-3.F. Appeals**.

5. Master Development Plan Submittal Requirements

The Master Development Plan shall be provided electronically in PDF format on 18-inch x 24-inch sized pages at a scale that legibly and adequately represents the information. If more than one sheet is used, all sheets must be indexed and contain an index map showing the relationship of the sheet to the whole. The following information shall be shown, unless specifically added or waived in accordance with **Sec. 34-3.C.3. Modification, Addition, or Waiver of Required Submittal Materials**.

| Master Development Plan Submittal Requirements |
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| Application, signed by all property owners (including all parties having an equitable interest, trustees of an estate or all persons having a specific power of attorney) for the subject property, as recorded in the County Clerk's Office. |
| Application submittal fee. |
| Name of Master Development Plan. |
| Detailed area/vicinity map clearly showing the surrounding area and the proposal's relationship to existing road networks, and existing natural and/or constructed features that may impact the development or may be impacted by the development. Detail must be sufficient so that the subject property can be located in the field using the map. |
| A separate sheet identifying the limits of any adjacent property owned, legally controlled by, or of any development and/or financial interest to said subdivider. |
| North arrow, date of preparation, written and graphic standard engineering scale. |
| A general legal description that shall include approximate survey ties and approximate acreage |
| Name and address of the consultant preparing the Master Development Plan. |
| Name and address of the developer. |
| Boundary lines of the Master Development Plan, with approximate lengths of lines. |
| Proposed land use, by parcel or phase. Residential parcels shall provide gross density range. |
| Present zoning and proposed zoning (if applicable). |
| Contours—20-foot intervals. In instances whereby 20-foot intervals are not appropriate or applicable, contours may be provided at an appropriate interval that adequately presents the elevation differences of the land as determined by the Community Development Director. |
| Adjacent land use and zoning district identification. |
| Thoroughfare system:<br>• Proposed approximate location, length, width and point of intersection of all major transportation systems, which may include:<br>o Bikeways, trails, and any other transportation lines;<br>o Existing and proposed points of ingress and egress; |

| Master Development Plan Submittal Requirements |
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| ○ Existing and proposed transit stops and transit service as per the RoadRUNNER Transit Plans; and<br>○ Location and phasing of signalized intersections.<br>• Identify existing and proposed classification of roads as per City design standards and based on the Comprehensive Plan and Active Transportation Plan. |
| Significant natural features, such as arroyos and approximate 100-year floodplains. |
| Easements, with all public easements labeled as “easement for public use.” |
| Tabular information.<br>• Land use of each parcel and phase (if applicable).<br>• Approximate acreage for each parcel and phase (if applicable).<br>• Number of residential dwelling units, minimum and maximum range, for the development and by phase (if applicable).<br>• Number of dwelling units by type.<br>• Dwelling Units Per Acre (DUA) for each parcel and phase (if applicable).<br>• Approximate square footage of nonresidential uses for the development and by phase (if applicable)<br>• Approximate acreage proposed for open space, private and public facilities, and right-of-way for the development and by phase (if applicable).<br>• Approximate additional population to be generated by development, based on U.S. Census data.<br>• Approximate additional traffic estimated to be generated by development, utilizing ITE trip generation, latest edition, information, as amended. |
| Approval block signifying the final approved Master Development Plan to be signed by the Community Development Director upon approval by the Planning & Zoning Commission and compliance with all conditions. |
| Phasing plan. If developing in phases, a phasing plan shall identify the phase (or date by which) public facilities (e.g., trails, amenity centers, recreational facilities, other improvements) will be provided. |
| Conceptual utilities plan. The conceptual utilities plan shall contain enough information to provide a general outline of the proposed utility-routing plans for the development, including locations and sizes of existing and proposed utilities to be provided to the development to meet Las Cruces Utilities standards. |
| A CLOMR shall be submitted for review by the City and submitted to the Federal Emergency Management Agency and shall be approved by FEMA prior to master plan approval. A LOMR shall be submitted for review by the City and submitted to the Federal Emergency Management Agency and shall be approved by FEMA before acceptance by the City and before the issuance of any Certificate of Occupancy. (if applicable) |
| Conceptual drainage plan. The conceptual drainage plan shall contain enough information to provide a general understanding of how drainage issues will be addressed by the development. |
| Conceptual traffic-related improvements plan. The conceptual traffic related improvement plan shall contain enough information to provide a general understanding of how any increase in traffic on adjacent and internal public streets will be addressed by the development. |
| Copy of early notification letter (**Sec. 34-3.H. Early Notification and Meeting Requirements**) to noticed area and copy of minutes (summary or verbatim) from any subsequent noticed area meeting as may have been required. |

## B. Preliminary Plat

1. Preliminary Plat Purpose

   The purpose of the Preliminary Plat is to determine the general layout of the subdivision, the adequacy of public facilities needed to serve the intended development, and the overall compliance of the land division with applicable requirements of all adopted City plans, rules and regulations, and the development Master Development Plan, if applicable.

2. Preliminary Plat Required

   a) A Preliminary Plat conforming to this section shall be required for all subdivisions that follow the Major Platting Process (**Sec. 37-2.C**).

   b) A Preliminary Plat may be submitted simultaneously with a Master Development Plan.

   c) Requests for zoning variances or exceptions may be considered in conjunction with the plat request.

3. Submittal of a Preliminary Plat Application

   a) Following a pre-application meeting (**Sec. 34-3.B**) and any required early notification (**Sec. 34-3.H**), an applicant may submit the Preliminary Plat application.

   b) Applications shall be subject to a Determination of Completeness (**Sec. 34-3.C.4**).

   c) Any application without any formal submission within one year of the last submission will automatically expire.

4. Consideration of a Preliminary Plat Application

   a) Administrative Review and Recommendation

      The DRC shall review and recommend the application in accordance with **Sec. 34-3.C. Application Processing**.

   b) Planning & Zoning Commission Action

      i) In accordance with NMSA 3-20-7, the Planning & Zoning Commission shall take action to either approve or disapprove the Preliminary Plat within 35 days of the plat's Official Submittal Date. Upon agreement that a delay is appropriate, the applicant may be required to submit a statement waiving the right to action within this timeframe.

      ii) Agendas shall be posted and public notice provided prior to a public meeting before the Planning & Zoning Commission in accordance with **Sec. 34-3.G. Notice for a Public Meeting**. In accordance with NMSA 3-20-7, an applicant may waive the requirement for a public meeting.

      iii) The Planning & Zoning Commission shall review the Preliminary Plat application, comments from the DRC, the presentation from the subdivider or the subdivider's representative and from any interested citizens at a public meeting (if applicable).

      iv) Action from the Planning & Zoning Commission shall be recorded in the minutes of the meeting.

   c) Effect of Preliminary Plat Approval

      Approval of a Preliminary Plat shall not constitute approval of the Final Plat, but shall signify the general acceptability of the proposed subdivision. Preliminary Plat approval shall constitute permission to prepare and submit the Construction Plans for all improvements for the proposed subdivision. Construction Plans shall not be considered until Preliminary Plat approval is complete.

   d) Effective Term and Expiration

      i) Preliminary Plat approval shall be effective for no more than three years from the date of approval. If Construction Plans or a Final Plat application has not been submitted, the Preliminary Plat shall expire, and a new Preliminary Plat application must be submitted for approval.

ii) If the approved Preliminary Plat contains more than one phase, a Final Plat must be submitted within every three years thereafter (for a Preliminary Plat with more than one phase) until all phases are complete; otherwise, the Preliminary Plat shall expire.

iii) If an approved Final Plat is allowed to expire, the Preliminary Plat shall also expire.

iv) The applicant may submit a request for a one-year extension of approval, prior to the expiration date, if desired. The request will be reviewed by the Community Development Director. All plat extensions shall be automatically conditioned to require compliance with all City codes, regulations, and specifications in place at the time of development of the plat in question.

e) Deviations from an Approved Preliminary Plat

i) Any Final Plat submittal that results in a substantial change to an approved Preliminary Plat will require resubmittal of the Preliminary Plat in its entirety and may trigger the need for a noticed area meeting at the discretion of the Community Development Director. Minor modifications shall be considered by the Community Development Director.

ii) Substantial changes will be subject to a Planning & Zoning Commission public meeting, with the same requirements as an original application. Substantial changes shall include but are not limited to:

a. Any major change in land use or use intensity (e.g., shifting or increasing drainage areas, adding a trail easement);

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

c. Roadway network changes;

d. An anticipated increase in residential density;

e. Any change in the Preliminary Plat that is determined by the Community Development Director to be substantial.

f) Appeals

Any appeals shall be processed in accordance with **Sec. 34-3.F. Appeals**.

5. Preliminary Plat Submittal Requirements

The Preliminary Plat shall be provided electronically in PDF format on 18-inch x 24-inch sized pages at a scale that legibly and adequately represents the information. If more than one sheet is used, all sheets must be indexed and contain an index map showing the relationship of the sheet to the whole. The following information shall be shown, unless specifically added or waived in accordance with **Sec. 34-3.C.3. Modification, Addition, or Waiver of Required Submittal Materials**.

| Preliminary Plat Submittal Requirements |
|---|
| Application. |
| Application submittal fee. |
| Name of proposed subdivision. |
| Total acreage of subdivision, to nearest one-hundredth of an acre. |
| Date of preparation, north arrow, written and graphic standard engineering scale. |

| Preliminary Plat Submittal Requirements |
|---|
| Detailed area/vicinity map showing existing road networks to include a minimum of two major thoroughfares, outline of surrounding parcels, and existing natural and/or constructed features that may impact the development. Detail must be sufficient for the subject property to be located in the field using the map. |
| Name and address of subdivider. |
| Name and address of the person, corporation or organization preparing the Preliminary Plat. |
| An accurate and complete boundary survey of the land to be subdivided that meets or exceeds the Minimum Standards for Surveying NMAC 12.8.2.<br>• The name of the surveyor who performed and is responsible for the survey shall be provided.<br>• Boundary survey will include all monuments found accepted/rejected and monuments to be set.<br>• Boundary lines shall be given in bearings (degrees, minutes, and seconds).<br>• Distances will be shown in feet to the nearest hundredth.<br>• Curved boundary lines will provide sufficient data to be reestablished on the ground and will include central angle, radius, arc length, chord bearing and distance. |
| A statement of ownership, signed by the legal owner, and the equitable owner if applicable, on the final approved Preliminary Plat. |
| A separate sheet identifying the limits of any adjacent property owned, legally controlled by, or of any development and/or financial interest to said subdivider. |
| A separate sheet with the Intersection Site Design (ISD) study. ISD are not required on the final plat. |
| Zoning or proposed zoning shall be shown with boundaries given as streets, highways, or property lines. Special Use Permit or Planned Unit Development information and any Zoning Variance requests shall be included if applicable. |
| Uniquely identify each lot-by-lot number and block when applicable, tracts to be identified by alphabetically. Acreage for each lot and tract will be included. |
| Proposed lot lines and public rights-of-way lines; rights-of-way and street widths; rights-of-way for public services or utilities with identification of any limitations thereof. |
| When using a private water provider, provide a current engineered water system analysis, in accordance with LCFD guidelines. |
| Proof that all lots in any subdivision meet the requirements of **Chapter 36. Zoning Regulations** and that each lot shall be dimensioned in such a manner that setbacks, as required by the code, shall be met for any structure or building that may be on or will be constructed on the lot. No platted lot within a subdivision shall contain less square footage than that required by **Chapter 36. Zoning Regulations**. |
| Additional setbacks and any restrictions needed to accommodate required clear sight triangles at intersections; |
| Approximate locations, dimensions, areas, and purposes of tracts proposed to be reserved for the public; |
| Sites and approximate area(s) for any multi-family dwellings or nonresidential uses; |
| Existing conditions:<br>• Present site designation or subdivision name;<br>• Easements on-site: Location, width, and purpose of each, with all public easements labeled as “easement for public use”, and existing filed information of said easement;<br>• Public rights-of-way on and within 150 feet of the site: name, width, and classification of each, and filed information of public right-of-way, to include right-of-way document establishing width, owner, maintenance, etc.; |

| Preliminary Plat Submittal Requirements |
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| • Utilities on and adjacent to the site: Locations and size of each water line, sanitary and storm drain; locations of all irrigation channels and drains; locations of sewer mains, gas mains, gas lines, fire hydrants, electric and telephone poles, and street lights. If water mains and sewers are not on or adjacent to the tract, indicate the directions, distances, and sizes of the nearest lines;<br>• Existing topography.<br>  o For land with average slopes of less than five percent, show contour lines at intervals of not more than two feet;<br>  o For land with average slopes exceeding five percent, show contour lines at intervals of not more than five feet;<br>• Floodplain shall be clearly graphically delineated and noted;<br>• Existing storm drainage facilities on and adjacent to the site;<br>• Walkshed analysis of existing and proposed parks within a ¼-mile radius;<br>• Conditions on adjacent land significantly affecting design of the subdivision: approximate directions and gradients of ground slopes, character and location of development, and access points from adjacent points. |
| Approval block signifying the final approved Preliminary Plat, to be signed by the Community Development Director upon approval by the Planning & Zoning Commission and resolution of all outstanding staff comments; |
| Conceptual utilities plan. The conceptual utilities plan shall contain enough information to provide a general outline of the proposed utility-routing plans for the development, including locations and sizes of existing and proposed utilities to be provided to the development to meet Las Cruces Utilities standards. |
| A CLOMR shall be submitted for review by the City and submitted to the Federal Emergency Management Agency and shall be approved by FEMA prior to preliminary plat approval. If master planned provide approval documentation from the master plan. A LOMR shall be submitted for review by the City and submitted to the Federal Emergency Management Agency and shall be approved by FEMA before acceptance by the City and before the issuance of any Certificate of Occupancy. (if applicable) |
| ITE Trip Generation, pending TIA requirement~~Master Traffic Impact Analysis~~. Refer to **Sec. 38-2.G. Traffic Impact Analysis**, ITE Traffic Impact Analysis guidelines, and other requirements as approved in consultation with the Public Works Director. For Preliminary Plats that are submitted without a preceding Master Development Plan, the applicant may opt to delay the Master TIA until after Preliminary Plat approval and before or with Construction Plan submittal; however, applicants should be aware that Preliminary Plat resubmittal may be required based on outcomes of the Master TIA. |
| Master Drainage Study. The purpose of the master drainage study is to identify major drainage ways, ponding areas, locations of culverts, bridges, open channels and drainage basins that are contributory to the proposed study area. In addition, the ability of downstream drainage facilities to pass the developed runoff from the proposed development must be analyzed in the master drainage study. The master drainage study shall contain a general outline of the proposed drainage routing plans for the development. The digital format of the report contents must be provided (e.g., AutoCAD, HEC-RAS, etc.).<br><br>For Preliminary Plats that are submitted without a preceding Master Development Plan, conditional approval with submission of the master drainage study can be given. ~~the applicant may opt to delay the Master Drainage Study until after Preliminary Plat approval and before or with Construction Plan submittal; however, applicants should be aware that Preliminary Plat resubmittal may be required based on outcomes of the Master Drainage Study.~~<br><br>• The report shall include, but not be limited to, the following information and calculations:<br>  o Calculation for peak flow from all offsite tributary drainage areas.<br>  o Calculations for peak flow within the proposed development for all drainage basins larger than 20 acres.<br>  o Preliminary analysis of 100-year floodplain and major drainage ways.<br>  o Closed sub-basin analysis of 100-year floodplain and major drainage ways.<br>  o Discussion and analysis of downstream drainage facilities.<br>  o Discussion of anticipated drainage problems within the proposed development and possible solutions.<br>  o Report shall be typed on 8½-inch x 11-inch pages.<br>• Drawings for the master drainage study shall include, but not be limited to, the following:<br>  o Any and all floodplains and flood ways must be identified. A copy of applicable FEMA floodplain map is required indicating limits of current study.<br>  o Existing topography.<br>  – For land that slopes less than approximately five percent, show contour lines at intervals of not more than two feet.<br>  – For land that slopes more than five percent, show contour lines at intervals of not more than five feet. |

| Preliminary Plat Submittal Requirements |
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| – Location and size of existing and proposed open channels, storm drains, retention/detention areas, and other drainage structures.<br>– Identification of all drainage basins in the development.<br>– Location of all streets in/adjacent to the proposed development.<br>– Identification of all drainage basins tributary to the proposed development.<br>– Basin maps may be scaled as small as 1 inch = 2,000 feet. Orthophoto maps at a scale of 1 inch = 200 feet are preferred. (Use the most appropriate scale available)<br>• Inlet and storm drain size calculations are not required with the master drainage study; therefore, the number of sub-basins analyzed in the report shall be held to the smallest practical amount. |

## C. Construction Plans

1. Construction Plans Purpose

   Construction Plans ensure that public improvements are installed to serve a development in accordance with all applicable regulations.

2. Construction Plans Required

   Construction Plans shall be required prior to the installation of public improvements (e.g., those improvements that are intended for dedication to the City) or private improvements as determined by the reviewing department.

3. Submittal of Construction Plans

   Construction Plans shall be submitted simultaneously with the Final Plat.

4. Consideration of Construction Plans

   a) The Community Development Department shall review the submittal for completeness in accordance with **Sec. 34-3.C.4. Complete Application**.

   b) Construction Plans and supplemental material will be processed by the applicable City departments and other governmental agencies for review, comments, and recommendations and forwarded to the Community Development Director.

   c) The Community Development Director shall forward any comments to the applicant for completion. Construction Plans and supplemental material that receive comments shall be resubmitted and reviewed until the provisions set forth in this section are met. At that time, the Construction Plans shall be approved, the construction approval block signed by the appropriate authorities and a construction permit issued (if the Final Plat has received approval from the appropriate authority).

   d) Whenever comments received by the City departments are in conflict, the Community Development Director will determine the appropriate procedure to be followed, utilizing the DRC where appropriate, in order to resolve said conflict or disagreement.

   e) Appeals

      Any appeals shall be processed in accordance with **Sec. 34-3.F. Appeals**.

5. Engineer of Record Responsibility

   Review and approval of the construction plans does not preclude the Engineer of Record from responsibility for adherence to all applicable local, state and federal codes, regulations and requirements. Errors and omissions when discovered are the responsibility of the developer to resolve prior to final acceptance.

6. Construction Plans Submittal Requirements

The Construction Plans shall be provided electronically in PDF format on 18-inch x 24-inch sized pages at a scale that legibly and adequately represents the information. If more than one sheet is used, all sheets must be indexed and contain an index map showing the relationship of the sheet to the whole. The following information shall be shown, unless specifically added or waived in accordance with **Sec. 34-3.C.3. Modification, Addition, or Waiver of Required Submittal Materials**:

| **Construction Plans Submittal Requirements** |
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| Application. |
| Application submittal fee. |
| A Final Plat conforming to **Sec. 37-3.D. Final Plat** (unless the installation of public improvements is delayed in accordance with **Sec. 37-4.C.1.a)**. |
| Updated clear sight triangle based on actual horizontal and vertical geometry of roadway design conforming to **Sec. 38-2.H. Clear Sight Triangle**. |
| Geotechnical soils investigation report. A complete geotechnical soils investigation and corresponding report may be required if the soil conditions are unknown, unreliable, or otherwise unusual. This requirement must be met when working in soils that are graded “expansive” or “very fine.”<br><br>Any geotechnical soils investigation must include, at a minimum, representative sampling and testing for:<br><br>• Soil classification (NRCS);<br>• Sieve analysis;<br>• Structural design factors (R value and/or CBR value); and<br>• Other parameters may be required, including but not limited to:<br>  ○ Soil percolation tests (permeability);<br>  ○ Soil boring logs; and<br>  ○ Water table elevations. |
| Pavement design. A complete pavement design shall be based on a TIA where applicable and may be required for collectors, arterials, industrial parks/developments, or other areas subject to unusual traffic loadings. This requirement must be met whenever the soil to be worked in has been graded as “expansive” or “very fine.” Pavement designs must include, at a minimum:<br><br>• Depth and type of subgrade preparation;<br>• Depth and type of base course needed; and<br>• Depth and type of asphalt pavement needed (Note: Asphalt mix formula to be required from contractors). |
| Final drainage study. The final drainage study shall be a detailed report and analysis of the drainage in the proposed development. It shall include detailed calculations for all potential runoff within the proposed development, and detailed calculations supporting the design of all drainage structures within the development. Construction plans for all drainage structures, and grading plans for all street grades where applicable, shall also be considered as part of the final drainage study. All drawings shall be formatted for 24-inch x 36-inch sheets.<br><br>Drawings and calculations comprising the final drainage study shall include, but not be limited to, the following information:<br><br>• Existing and proposed contours for proposed development. (Contour interval based on City Coordinate System or approved coordinate system as outlined in the Minimum Standards for Surveying in New Mexico – two-foot contour interval minimum). Proposed development with relatively flat surfaces (e.g., river valley subdivisions) shall contain spot elevations or one-foot contour intervals.<br>• Location(s) and elevation(s) of City or U.S.G.S benchmark(s). All elevations shall be based on City of Las Cruces Low Distortion Projection or a datum approved by the City Surveyor.<br>• Property lines.<br>• Streets, R.O.W. limits, names and grades.<br>• Existing drainage facilities and structures, including existing irrigation ditches, roadside ditches, drainage ways, gutter flow directions, and culverts. All pertinent information such as size, slope, elevations and locations of existing drainage ways shall be included in order to facilitate review and approval of drainage plans. |

| Construction Plans Submittal Requirements |
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| • Overall drainage area boundaries and drainage sub-area boundaries.<br>• Proposed types of curbs and gutters and gutter flow directions, including crosspans (intersections).<br>• Proposed storm drains, open drainage ways and right-of-way requirements, including proposed inlets, manholes, culverts, erosion control and energy dissipation devices, and any other appurtenances necessary for drainage control.<br>• Proposed inflow and outfall point(s) for runoff from the study area.<br>• Routing and accumulative flows at various critical points for the initial (10-year) and major (100-year) storm runoff.<br>• Minimum finished-floor elevation and ground-site elevations at all critical building locations for protection from major storm runoff.<br>• A 1-inch = 100-foot (preferable) scale map of the proposed development that shows the following information:<br>o Locations and sizes of all drainage structures;<br>o General flow patterns within the development;<br>o Minimum finished-floor or building-pad elevation of each building site;<br>o 100-year flood level in all streets in which the curb would be overtopped during the 100-year storm;<br>o All drainage basins within the development (Note: The number of basins should be limited to the smallest practical number.)<br>• All floodplains and arroyos within the proposed development. A copy of the current FEMA Floodplain Map is required showing project limits.<br>• Plan details. The following details shall be indicated on the drainage plans.<br>o Title block (lower right-hand corner preferred);<br>o Scale;<br>o Date and revisions;<br>o Name and address of professional engineer (and firm);<br>o Professional engineer's seal;<br>o Drawing number (sheet n/n);<br>o Legend;<br>o Approval block for appropriate reviewing departments and agencies. |
| Construction drawings. Construction drawings shall be prepared by a registered professional engineer licensed in the state. All drawings shall be formatted for 24-inch x 36-inch sheets and shall show the following information:<br><br>• Plan.<br>• North arrow;<br>• Property lines;<br>• Street names and easements (with locations and width dimensions);<br>• Existing utility lines, locations, and depths (or heights):<br>o Water;<br>o Gas;<br>o Storm drains;<br>o Irrigation canals;<br>o Sanitary sewers;<br>o All existing and proposed public and private utilities.<br>• Profile.<br>o Vertical and horizontal grids with scales identified;<br>o Ground surface grade (dashed line) and proposed grade (solid line);<br>o Existing utility lines where crossed;<br>o Benchmarks (N.G.S. Datum).<br>• Proposed construction.<br>o Pipes and culverts.<br>– Plan showing stationing;<br>– Profile showing elevations at even stationing (at 50-foot intervals)<br>– Size and length pipe, pipe composition (if applicable), and distances between manholes;<br>– Slope of pipe;<br>– Size and type of valves and fittings<br>– Radius of curved utility line<br>– Inlet and outlet details of all manholes and inlets, and connections to existing drainage systems (if applicable);<br>– Manhole details, including station numbers, and invert and top elevations; |

| Construction Plans Submittal Requirements |
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| – Typical bedding details for pipe for all bedding situations encountered on project;<br>o Open channels:<br>– Plan showing stationing;<br>– Profile indicating elevations of invert of channel, top of lining (if any), and adjacent ground grade;<br>– Profile showing elevations at even stationing (at 50-foot intervals);<br>– Typical cross sections;<br>– Construction notes;<br>– Lining details;<br>– Rip-rap and bedding details, with graduation requirements for same;<br>– Details of all inflow and outflow structures and drop structures (includes subgrade and foundation design details);<br>o Technical specifications shall be included on any drainage project permitted for construction within the City. Specifications shall meet the minimum guidelines for construction as outlined in the City standard specifications for roadway construction and design standards as amended.<br>o Parks, trails, other recreation improvements; streetscape and irrigation improvements; details and technical specifications related to these improvements. |
| A separate TIA permit is required and must be referenced. Final approved TIA report ~~and required infrastructure improvements~~ must be submitted prior to construction drawing submittal. Once approved the TIA shall be included as part of the construction drawing submittal with requirements as noted in **Sec. 38-2.G. Traffic Impact Analysis**, ITE guidelines, and approved in consultation with the Public Works Director. |
| Street plan and profiles. The plan and profiles shall be formatted for 24-inch x 36-inch sheets by a registered professional engineer, licensed in the state. The scale of all plans and profiles shall be 1:5 vertical, 1:50 horizontal unless a grid break would result. In such cases, the scale may be 1:10 vertical, 1:100 horizontal. A grid shall be required in all cases.<br>• Plan:<br>o Title block (lower right-hand corner preferred);<br>o Horizontal/vertical scale;<br>o Date and revisions;<br>o Name of professional engineer (and firm);<br>o Professional engineer's seal;<br>o Drawing number (sheet n/n);<br>o Legend;<br>o Construction approval block for appropriate reviewing departments and agencies;<br>o Street name;<br>o North arrow;<br>o Match lines with stationing and "see sheets" called out;<br>o Limits of construction;<br>o Centerline stationing;<br>o Stations at street intersections, curb returns, and property lines;<br>o Sizes and locations of all utilities (existing and proposed) (stub-outs not required);<br>o Rights-of-way widths;<br>o Adjacent block and lot numbers;<br>o Fire hydrant locations;<br>o Water and gas lines and valve locations, sizes, materials, and radius for curved lines, with all fittings (e.g., elbows, caps) called out;<br>o Sidewalk and wheelchair ramp locations;<br>o Curve centerline data;<br>o Proposed street lighting system, signage, and markings;<br>o Stationing and locations or crown transition;<br>o Back-of-curb radius (P.C., P.T., and midpoint stations), or sidewalk if no curbing is required, if applicable;<br>o Curb/gutter locations, if applicable;<br>o Top-of-curb elevations, or of sidewalk if no curbing is required, and stations at each front lot corner;<br>o Drainage flow arrows at crosspans and nontypical intersections;<br>o Driveway locations and stations (if applicable);<br>o Proposed top-of-pavement spot elevations at and across from all intersections (at flowline extensions);<br>o A local benchmark based on N.G.S. datum, with description, location and elevation; |

| Construction Plans Submittal Requirements |
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| ○ Sewer lines with flow directions and manhole locations, sewer line size, materials, manhole numbers, and radius for curved lines;<br>○ "No parking" sign locations (if applicable); and<br>○ Bike lane stripes, bike lane symbols, buffered bike lanes, protected bike lanes, bike lane or share the road signs, and bike sharrow lane symbols (if applicable).<br>• Profiles:<br>○ Proposed and existing grades 100 feet beyond limits of construction;<br>○ Even stationing (at 50-foot intervals) and elevations on all profiles of top-of-curb, right and left, street centerline required if in a nontypical section;<br>○ Stationing and elevation of the vertical point of intersection on all vertical curves, including PVT, PVI, PVC, and K value;<br>○ Top-of-curb elevations (or top-of-sidewalk elevations if no curbing is required at each lot corner);<br>○ Sanitary and storm sewer pipe invert elevations;<br>○ Slopes and lengths of sewer lines;<br>○ Stationing, size, and material of manholes; elevation for manhole rim, invert in and invert out;<br>○ Water and gas lines shown on profile with depths per Las Cruces Utilities standards and any necessary line lowering;<br>○ Limits of construction; and<br>○ Grid at scale of 1:5 Vertical and 1:50 horizontal; scale can be 1:10 vertical and 1:100 horizontal if size will require a page break. |
| Grading plans. The plans shall be prepared by a registered professional engineer licensed in the state. All grading, including lot grading, shall be done at time of roadway construction and to be maintained by subdivider. The grading plans shall be provided separately from the utility master plan. The following information shall be required:<br>• Street names;<br>• Block and lot numbers;<br>• North arrow;<br>• Written and graphic standard engineering scales;<br>• Existing contours based on project "as-builts," not plans, at 2-foot intervals (100 feet beyond project boundary if adjacent land is undeveloped and the property line of the adjacent land is developed). Proposed development with relatively flat surfaces (e.g., river valley subdivisions) shall provide spot elevations, or one-foot contour intervals;<br>• Retaining wall locations (and note if walls will be built at time of roadway construction);<br>• Top-of-curb elevations, or sidewalk if no curbing is required at each lot corner<br>• Pad elevations or finished floor elevations (for each lot);<br>• Spot elevations showing high points and low points or a typical lot detail if the proposed development has a relatively flat surface (e.g., River Valley subdivision);<br>• Pond elevations: Top, bottom and dimension from property lines (if applicable);<br>• Barrow ditch elevations (if applicable);<br>• Drainage channel elevations (if applicable);<br>• Drainage flow arrows (and note if roof area will drain to ponding area);<br>• Retention/detention, basin, location and elevation;<br>• A project benchmark based on N.G.S. datum with description, location, and elevation;<br>• General notes for grading and construction, etc.;<br>• Off-site grading or slope grading limits (if applicable);<br>• All grading must comply with Chapter 70 Grading, Excavations, and Fills of the International Building Code. Alternative design may only be approved by the Public Works Director.<br>○ If grading will be performed on the land of an adjacent property owner(s), or construction vehicles may need to access the property, a copy of a letter must be provided to the City, signed by the adjacent property owner(s), stating that they understand the nature of the work and do not oppose the modification to their property and/or that they will allow temporary access to their property by the contractor;<br>• Existing utilities. |
| Utility master plan. The Utility master plan shall include all phases of development and be prepared by a registered professional engineer, licensed in the state. If utilities are not in the standard location, i.e., street right-of-way, then preapproval is required by the utilities department. The utility master plan shall be provided separately from the grading plans. The following information shall be required:<br>• Lot and block numbers; |

| Construction Plans Submittal Requirements |
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| • Street names;<br>• North arrow, written and graphic standard engineering scale;<br>• Utility stub-outs;<br>• Street light pad and conduit locations;<br>• Wire utility boxes;<br>• Fire hydrant locations;<br>• Water and gas valve locations and fittings;<br>• A local benchmark based on N.G.S. datum, with description, location, and elevation; and<br>• Sewer lines with flow directions and manhole locations. |
| Detail sheet, to be prepared by a registered professional engineer licensed in the state. The following information shall be required, if applicable:<br><br>• Roadway construction notes and general notes;<br>• Utility construction notes;<br>• Manhole details;<br>• Radius of curved utility line;<br>• Typical utility stub-out to lot detail;<br>• Street intersection detail (if applicable);<br>• Typical street cross-section(s) (including paving composition);<br>• Curb and gutter detail;<br>• Wheelchair ramp detail;<br>• Retaining wall detail, cut-off wall detail, and all fencing details (a separate permit will be required if applicable);<br>• Drainage structure details;<br>• Light base details;<br>• Typical lot layout;<br>• Foundation detail for signage;<br>• Signage face detail;<br>• Street lighting system details following the Approved Product List;<br>• Any other construction detail that may be needed for clarification purposes; and<br>• Water and gas valve and line detail. |

## D. Final Plat

1. Final Plat Purpose

   The Final Plat is the subdivision instrument that is prepared for recording in the County Clerk's Office. The Final Plat process ensures that the recordable plat is in complete compliance with plans approved earlier in the Preliminary Plat process.

2. Replats

   A replat (i.e., resubdivision) that makes changes to a previously approved Final Plat requires the filing of a new Final Plat. A replat follows the same procedures outlined in this **D. Final Plat**.

3. Final Plat Required

   a) A Final Plat shall not be submitted until Preliminary Plat approval, if applicable, is complete.

   b) Said Final Plat shall be prepared by, and have the seal of, a professional surveyor. The survey shall be prepared using the City Coordinate System or approved coordinate system as outlined in the Minimum Standards for Surveying in New Mexico.

4. Submittal of a Final Plat Application

   a) Following a pre-application meeting (**Sec. 34-3.B**), any required early notification (**Sec. 34-3.H**), and any required Preliminary Plat approval, an applicant may submit the Final Plat application in conjunction with Construction Plans (if applicable).

   b) Applications shall be subject to a Determination of Completeness as outlined in **Sec. 34-3.C.4. Complete Application**.

5. Consideration of a Final Plat Application

   a) In accordance with NMSA 3-20-7, the City shall take action to either approve or disapprove the Final Plat within 35 days of the plat's Official Submittal Date. Upon agreement that a delay is appropriate, the applicant may be required to submit a statement waiving the right to action within this timeframe.

   b) Administrative Approval of Final Plats

      i) For Final Plats following an approved Preliminary Plat, the Community Development Director shall review and approve the application in accordance with **Sec. 34-3.C. Application Processing**.

      ii) For Final Plats that do not follow an approved Preliminary Plat, the DRC shall provide a recommendation and the Planning & Zoning Commission shall approve the application in accordance with **Sec. 34-3.C. Application Processing**.

   c) Effect of Final Plat Approval

      The Final Plat shall not be filed until all improvements have been constructed, inspected, and ready for approval and maintenance acceptance by the City. Upon approval and filing of the Final Plat, the applicant may sell lots and apply for Building Permits.

      i) If the construction of public improvements will be delayed in accordance with **Sec. 37-4.C.1.a)**, Performance Security shall be submitted with the Final Plat and Construction Plans.

      ii) If the construction of public improvements is substantially complete, the City shall authorize the applicant to file the Final Plat and may issue building permits. See **Sec. 37-4.D. Substantial Completion** for more information.

   d) Revisions to an Approved Final Plat

      i) No changes, revisions, erasures, or modifications shall be made on the Final Plat.

      ii) No Final Plat shall be filed and recorded prior to the satisfaction of all requirements and conditions.

e) Expiration

If the applicant has not filed a Final Plat within three years of the date of approval, the Final Plat shall expire.

f) Appeals

Any appeals shall be processed in accordance with **Sec. 34-3.F. Appeals**.

6. Final Plat Submittal Requirements

The Final Plat shall be provided electronically in PDF format on 18-inch x 24-inch sized pages at a scale that legibly and adequately represents the information. Once approved, the Final Plat shall be prepared for filing on 18-inch x 24-inch Mylar sheets at a scale that adequately represents the information. Copies provided shall be legible. If more than one sheet is used, all sheets must be indexed and contain an index map showing the relationship of the sheet to the whole. The following materials shall be submitted for a Final Plat unless specifically added or waived in accordance with **Sec. 34-3.C.3. Modification, Addition, or Waiver of Required Submittal Materials**.

| **Final Plat Submittal Requirements** |
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| Application. |
| Application submittal fee. |
| Name of subdivision. |
| Total acreage of subdivision to nearest one-hundredth of an acre. |
| Date of preparation, north arrow, written and graphic standard engineering scale. |
| Detailed area/vicinity map showing existing road networks to include a minimum of two major thoroughfares, outline of surrounding parcels and existing natural and/or constructed features that may impact the development. Detail must be sufficient for the subject property to be located in the field using the map. |
| A separate sheet identifying any adjacent property owned, legally controlled by, or of any development and/or financial interest to said subdivider. |
| Signed statements by the subdivider dedicating public rights-of-way and granting all required easements for public use. Also include a statement that the subdivision is planned with the free consent of and in accordance with the desire of the undersigned owner of the land, acknowledged in a manner required for acknowledgment of deeds. For consistency on all plats, the dedication statement shall read as follows:<br><br>DEDICATION<br><br>THE TRACT HEREON IS TO BE KNOWN AS _____ SUBDIVISION.<br><br>ALL RIGHTS OF WAY AND PUBLIC AREAS SHOWN HEREON ARE DEDICATED TO THE CITY OF LAS CRUCES. UTILITY EASEMENTS ARE GRANTED FOR THE USE OF THE UTILITY COMPANIES THAT ARE SIGNATORY TO THIS PLAT AND TO THE CITY OF LAS CRUCES. ALL RULES AND REGULATIONS OF THE CITY OF LAS CRUCES AND SAID UTILITIES WILL APPLY TO THESE EASEMENTS. ALL OTHER EASEMENTS SHOWN HEREON ARE GRANTED FOR THE USE INDICATED. NO ENCROACHMENT THAT WILL INTERFERE WITH THE USE OF EASEMENTS AS SHOWN ON THIS PLAT IS ALLOWED.<br><br>THE SUBDIVISION HAS BEEN DEDICATED IN ACCORDANCE WITH THE WISHES OF THE UNDERSIGNED OWNER(S) OF THE LAND SHOWN HEREON. |
| Name and address of subdivider. |
| Name and address of the person, corporation or organization preparing the Final Plat. |

| Final Plat Submittal Requirements |
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| Certification block for Planning & Zoning Commission chair and secretary. |
| Certification block(s) by authorized representatives from respective utility companies (cable, telephone company and electric company, etc.). |
| Certification and seal by a Professional Surveyor in accordance with the laws of the state, certifying the accuracy of the survey and the plat, and that the surveyor prepared or supervised preparation of the plat. |
| An accurate and complete boundary survey of the land to be subdivided that meets or exceeds the Minimum Standards for Surveying NMAC 12.8.2.<br>• The name of the surveyor who performed the survey shall be provided.<br>• Boundary survey will include all monuments found accepted/rejected and set.<br>• Boundary lines shall be given in bearings (degrees, minutes, and seconds).<br>• Distances will be shown in feet to the nearest hundredth.<br>• Curved boundary lines will provide sufficient data to be reestablished on the ground and will include central angle, radius, arc length, chord bearing and distance. |
| Subdivision shall be tied to an existing established monument. Subdivision will use the City Coordinate System or approved coordinate system as outlined in the Minimum Standards for Surveying in New Mexico. |
| Bearings and lengths for all lot lines and rights-of-way lines existing or proposed. Lines to be eliminated shall be designated and identified by dashed lines. |
| Names of streets, rights-of-way widths of all streets, commercial alleys, green ways, bikeways, trails, and other transportation links shall be so designated. |
| Provide record information (book and page or plat) dedicating existing rights-of-way. |
| Number to identify each lot; Acreage of each lot; Letter to identify each block. |
| Location, dimensions, and purpose of all easements, existing or proposed, and any limitations thereof. For existing easements, provide recording information book and page. All easements shall indicate its purpose and intended user. Any easement dedicated to the City shall state “the easement is intended for public use and shall be dedicated to the City of Las Cruces upon the filing of this plat”. |
| Adjacent land ownership within 100 feet as of the date drafted for submittal. Note subdivision and/or owner’s names and filing information: book, page and date. |
| Outlots or tracts designated by letter, with disposition indicated in the Note section. Location of land intended to be converted or reserved for public use or reserved in the deeds for the use of all property owners in the proposed subdivision shall be so identified. The purpose of each outlot and the responsibility for maintenance of all tracts shall be noted. All outlot or tracts shall indicate its purpose and intended user. Any outlot or tract dedicated to the City shall state “the outlot or tract is intended for public use and shall be dedicated to the City of Las Cruces upon the filing of this plat”. |
| Floodplain shall be clearly graphically delineated and noted. |
| Necessary easements for EBID or community ditches in relation to irrigation. |
| Ponding icon. For lots utilizing on-lot ponding, an icon shall be placed on the lot in the approximate location of the proposed ponding area. A note referencing the ponding icon shall also be present on the plat and reflect the purpose and the lot owner’s responsibility for maintaining the ponding area. |

| Final Plat Submittal Requirements |
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| A note placed on the plat stating: "Subdivider responsible for utility stub-outs and for providing any and all easements necessary to provide utility service to lots contained herein." |
| Appropriate documentation shall be submitted to show proof of water service and approval of sewage disposal. (Applicable if the subdivision will not be utilizing City services.) |
| Address plat. The address plat shall be submitted as a PDF sized for 18-inch x 24-inch sheets at a scale that adequately represents the information. The following information shall be required:<br>• Title of subdivision;<br>• Approved lot layout;<br>• Lot and block numbers;<br>• Street name;<br>• Street address for each lot (Community Development Department will provide the addresses); and<br>• Neighborhood delivery and collection box unit location (NDCBU), if applicable. |
| A traverse closure sheet (computer printout) for the exterior boundaries of the entire tract and for each parcel within the tract, except any parcels that are true rectangles. |
| Approved Master Traffic Impact Analysis ~~(unless already provided with a Preliminary Plat)~~. Refer to **Sec. 38-2.G. Traffic Impact Analysis**, ITE Traffic Impact Analysis guidelines, and other requirements as approved in consultation with the Public Works Director. |
| Master Drainage Study (unless already provided with a Preliminary Plat). The purpose of the master drainage study is to identify major drainage ways, ponding areas, locations of culverts, bridges, open channels and drainage basins that are contributory to the proposed study area. In addition, the ability of downstream drainage facilities to pass the developed runoff from the proposed development must be analyzed in the master drainage study. The master drainage study shall contain a general outline of the proposed drainage routing plans for the development. The digital format of the report contents must be provided (e.g., AutoCAD, HEC-RAS, etc.).<br>• The report shall include, but not be limited to, the following information and calculations:<br>  ○ Calculation for peak flow from all offsite tributary drainage areas.<br>  ○ Calculations for peak flow within the proposed development for all drainage basins larger than 20 acres.<br>  ○ Preliminary analysis of 100-year floodplain and major drainage ways.<br>  ○ Closed sub-basin analysis of 100-year floodplain and major drainage ways.<br>  ○ Discussion and analysis of downstream drainage facilities.<br>  ○ Discussion of anticipated drainage problems within the proposed development and possible solutions.<br>  ○ Report shall be typed on 8½-inch x 11-inch pages.<br>• Drawings for the master drainage study shall include, but not be limited to, the following:<br>  ○ Any and all floodplains and flood ways must be identified. A copy of applicable FEMA floodplain map is required indicating limits of current study.<br>  ○ Existing topography.<br>  – For land that slopes less than approximately five percent, show contour lines at intervals of not more than two feet.<br>  – For land that slopes more than five percent, show contour lines at intervals of not more than five feet.<br>  – Location and size of existing and proposed open channels, storm drains, retention/detention areas, and other drainage structures.<br>  – Identification of all drainage basins in the development.<br>  – Location of all streets in/adjacent to the proposed development.<br>  – Identification of all drainage basins tributary to the proposed development.<br>  – Basin maps may be scaled as small as 1 inch = 2,000 feet. Orthophoto maps at a scale of 1 inch = 200 feet are preferred. (Use the most appropriate scale available)<br>Inlet and storm drain size calculations are not required with the master drainage study; therefore, the number of sub-basins analyzed in the report shall be held to the smallest practical amount. |

## Sec. 37-4. Adequate Public Facilities

### A. Subdivider Responsibility

1. The subdivider of any approved subdivision shall be responsible for all on- and off-site infrastructure and utility improvements necessary for filing the Final Plat.
2. The subdivider shall be responsible for any necessary off-site utility extensions required to provide service, unless such extensions are already part of the utility capital improvement program.

### B. Adequate Public Improvements~~Facilities~~ Required

1. Land proposed for development must be adequately served by essential public improvements~~facilities~~ and services, including but not limited to water, wastewater, roadway facilities (e.g., street lighting, traffic signals, parking, and traffic control devices), bicycle, pedestrian, drainage, and park facilities. Requirements for such facilities are outlined in **Chapter 38. Development Standards** and Volume I of the Code of Ordinances.
2. Land shall not be approved for platting or site development until adequate public ~~facilities~~ improvements necessary to serve the development exist or provision has been made for the facilities.
3. A public ~~facility~~ improvement is considered sufficient when it is demonstrated to have available capacity to meet the demand generated by the proposed development, other adopted master plans for public facilities, and applicable capital improvement plans.

### C. Installation and Acceptance of Public Improvements

1. Public Improvements Required for Final Plat

   Public improvements shall be constructed, installed, inspected, and ready for approval and maintenance acceptance by the Public Works Department prior to the filing of an approved Final Plat.

   a) Exception: The Public Works Director may authorize a delay in the installation of public improvements for up to 24 months following Final Plat approval.

      i) A form of Performance Security and a bid from the contractor shall be filed with the City, along with a development agreement outlining the improvements to be completed, any cost sharing agreements (e.g., oversizing), and other terms as required by the Public Works Director.

         a. The amount of such Performance Security must cover 125 percent of the projected cost of all required improvements agreed to by the Public Works Director. The amount shall be based on the projected costs that the City – not a private developer – would incur at the time improvements are scheduled for completion.

      ii) Any of the following types of security shall be filed with the Community Development Director:

         a. Performance bond. A surety bond acceptable to the City to cover estimated costs of improvements.

         b. Escrow account. An account established with a financial institution in the amount of the projected costs of improvements.

         c. Irrevocable stand-by letter of credit. Irrevocable authority to draw a draft for the projected cost of improvements.

         d. Cashiers' check. An amount of security acceptable to the City to cover estimated costs of improvements.

         e. Any other form of security approved by the Community Development Director, Finance Director, and legal staff.

      iii) The City shall not issue any building permits within the subdivision until all improvements have been installed and inspected or are otherwise in compliance with **D. Substantial Completion**, unless Performance Security is provided.

iv) If the City determines that the subdivider will not construct any or all of the improvements in accordance with the specifications, the City may withdraw and employ from the deposit of collateral such funds as necessary to construct the improvements in accordance with the specifications.

2. Acceptance of Improvements

a) Following completion (or Substantial Completion in accordance with **Sec. 37-4.D** below) of all public improvements, the subdivider may request the City to conduct an inspection and consider acceptance of the improvements.

i) For acceptance of utility improvements, and prior to connection to the City's utility system, the subdivider shall submit utility Record Drawings for review and approval in accordance with the Public Works Department's and Utility Department's established record drawing submittal requirements.

ii) For acceptance of park improvements, the subdivider shall submit park construction document plans for review and approval by Parks & Recreation Department Director. Such plans shall be submitted to the Parks & Recreation Department through the Community Development Department.

b) The subdivider shall make a written request to the Community Development Director for final acceptance of all subdivision improvements. Along with the written request, the City shall require the submission of Record Drawings in accordance with **3. Record Drawings Submittal Requirements** and a detailed material listing. The City shall inspect said improvements to determine whether the infrastructure is acceptable and whether it conforms to the approved Final Plat and construction drawings.

c) The Community Development Director may formally accept said public improvements for City maintenance upon receipt of a written report of recommendation for acceptance and from the Public Works Director, Utilities Director, and Parks & Recreation Director that all applicable facilities have been fully installed in accordance with the plans, as approved, and that they are in conformance with the requirements of this Code.

d) The Community Development Director will notify the subdivider via letter (mailed or electronically mailed) as to whether the improvements will be accepted for City maintenance. The improvements will be accepted only with the concurrence of the Community Development Director, Public Works Director, Utilities Director, and Parks & Recreation Director.

3. Record Drawings Submittal Requirements

a) Record Drawings shall be submitted to the Public Works Director and Utilities Director for review and approval.

b) The computer-aided drawing file to be submitted shall be labeled with the contractor's name, the engineer's name, the subdivision name, the subdivision location, and the final inspection date. The computer-aided drawing file shall be the file used to generate the final Record Drawings (hard copy). The computer-aided drawing file shall depict the final as-builts with the rights-of-way and the subdivision tied to an existing established monument and using the City Coordinate System or approved coordinate system as outlined in the Minimum Standards for Surveying in New Mexico. The computer file drawing shall be in one of the latest two versions of AutoCAD, or in a similar 100 percent compatible and transferable file. Prior to submittal of the digital Record Drawings, the project engineer shall enter into a digital file agreement with the City. The purpose of the digital file agreement is to protect the project engineer from liability in the event that the drawings become altered in any manner not approved by the City and the project engineer.

c) Said drawings shall be signed and sealed by a registered engineer of the state. The drawings made from the design drawings based on the contractors' as-builts and the computer-aided drawing file shall provide the following information for City review:

i) Grade changes. Reflect all changes in grading from the approved plan and profile sheets, including but not limited to curb elevations, property line elevations, drop inlets, curb return elevations, tops of manholes, and inverts.

ii) Street alignment changes. Designate any alignment change within a street right-of-way that deviates from that shown on the approved plan and the profile sheets.

iii) Detail sheet changes. Reflect any change in street cross sections, retaining walls or other general details that have been altered from the approved construction drawings.

iv) Utility changes. Designate all utility changes that deviate from the approved plan and profile sheets.

v) Park changes. Reflect any changes in park features that deviate from the approved plan.

d) Additionally, a detailed material listing shall be required. The materials listing must be a tabular listing that includes, wherever appropriate, mains (sewer mains must include depth), valves, manholes, fire hydrants, number of service lines, and number of drainage inlets. These materials must be represented in the listing by the standard measure or by the unit installed (e.g., linear foot, number of each). The listing must be separated by utility function for potable water, wastewater, storm drainage, and energy/gas. The listing must include:

i) Developer's name;

ii) Subdivision name and location;

iii) Date of final inspection;

iv) Quantity and unit of materials installed (e.g., 250 linear feet, eight each);

v) Cost of improvements; and

vi) Material description, including size or dimensions (e.g., 4-inch PVC main).

## D. Substantial Completion

In order to ensure the health, safety, and welfare of City residents and the ability of City departments to deliver required services, Final Plat will not be filed and Building Permits will not be issued until a subdivision has reached substantial completion as defined herein.

1. Infrastructure Required

a) Installation of the following systems, in their entirety, shall be completed prior to issuance of a building permit(s) (if applicable to the development):

i) Complete roadway sections (subgrade, base course, asphalt paving, curb and gutter, sidewalks/multi-use paths for Arterial and Collector Streets);

ii) Complete and electrified streetlighting system (or proof is provided that electrical work is in progress);

iii) Complete water, wastewater, energy/gas, and drainage systems as shown and authorized on the permitted construction drawings;

iv) Electrical and gas utility connections (or proof is provided that electrical and gas utility connection work is in progress);

v) Dedicated parks and trails (unless an agreement with the Parks Department has been established for improvements to be installed at a later date);

vi) Retaining structures and retaining walls;

vii) Any off-site infrastructure improvements; and

viii) Installation of mailbox clusters or other USPS-approved mail delivery systems.

b) Minor punch list items may remain, as determined by the City's project manager. Examples of such items may include signage (excluding traffic control), park equipment, landscaping, and screening walls.

2. Administrative Approval

The Community Development Director shall confer with the Public Works Director, Utilities Director, and Parks & Recreation Directors, along with any other reviewing agency affected by the delayed public improvements, for

their approval. When Substantial Completion has been confirmed, the Community Development Director shall approve the filing of a Final Plat and issuance of Building Permits.

3. Effect of Approval

   a) Upon Community Development Director approval, a Final Plat may be filed and a Building Permit may be issued.

   b) All other proposed construction or activities that require the Building Permit must be determined to comply with applicable standards and regulations.

   c) No final inspection of buildings or structures may occur, no Certificate of Occupancy may be issued, no public potable water service may be provided, and no building may be occupied until all items are completed.

4. Completion of Other Required Improvements

   a) Any delayed improvements shall be guaranteed in accordance with **Sec. 37-4.C.1** above.

   b) If required improvements have not been installed within the 2-year period, the Community Development Director may approve one extension of no longer than 6 months.

   c) Any further extension of time for completion of required improvements shall require approval of the Planning & Zoning Commission.

   d) Updated improvement cost estimates and additional performance security may be considered as a condition of any approved extension.

5. Plat Note

   The following note shall be included on all Final Plats filed using the Substantial Completion provisions contained herein: “Substantial completion of the subdivision’s public improvements must be obtained prior to City issuance of building permits for lots contained within this subdivision.”

# Chapter 38. Development Standards

## Sec. 38-1. Development Standards General Provisions

### A. Title

This chapter shall be known and shall be cited as the “Development Standards” of the City of Las Cruces, New Mexico.

### B. Purpose

Each section contained herein specifies the purpose of the regulations.

### C. Applicability

Each section contained herein specifies the applicability of the regulations.

### D. Adequate Public Facilities Required

Adequate public facilities are required in accordance with **Sec. 37-4. Adequate Public Facilities**. A public facility is considered sufficient when it is demonstrated to have available capacity to meet the demand generated by the proposed development, the Comprehensive Plan, other adopted master plans for public facilities, and applicable capital improvement plans.

### E. Lot Type and Dimensional Standards

Lot design shall meet the lot type and configuration requirements and provide adequate width, depth, and shape in accordance with the standards outlined in **Chapter 36. Zoning Regulations**.

# Sec. 38-2. Roads, Rights-of-Way, and Parking

## A. Purpose

The purpose of this section is to regulate various transportation-related issues associated with public and private development, such as street design criteria, street layout, access management, installation of streetlighting, and preparation of traffic impact studies. In all transportation decisions, safety shall be prioritized to ensure the well-being and protection of every individual traveling within the City. These regulations are intended to provide a transportation network that accommodates pedestrian, bicycle, mass transit, vehicular traffic, and emergency services. Development shall be supported by a connected street network having adequate capacity, ingress/egress, traffic circulation, low traffic speeds, safe pedestrian and bicycle facilities, and mitigation of urban heat impacts.

The applicant shall ensure that the subdivision plat is served by an adequate roadway network, including local streets, collectors, and arterials, and shall be responsible for the costs of rights-of-way and street improvements in accordance with the following requirements and standards. The location and design of the transportation network shall be guided by the Active Transportation Plan, the Comprehensive Plan, and requirements of this section.

## B. Applicability

1. All new and reconstructed roadways shall meet the requirements contained herein. Other best practices resources that may be referenced and enforced by the City include, but are not limited to, publications developed by organizations such as NMDOT, AASHTO, FHWA, ITE, and NACTO, and federal requirements such as ADA and PROWAG. The most current version of these publications may be used along with engineering judgement to justify waivers from the criteria outlined in this document, if needed, in support of the vision and goals of the City of Las Cruces.
2. Designation of a particular street shall be determined by the following classification in accordance with the Comprehensive Plan Future Thoroughfare Map, Mesilla Valley MPO Future Thoroughfare Map, Active Transportation Plan, and Long-Range Transit Plan, any location- or corridor-specific plans, and other City Council adopted plans.
3. These regulations are intended to promote a hierarchy of connected streets where arterials connect to collectors and collectors connect to local streets to provide a multimodal connectivity that is conducive to pedestrians and bicyclists.

## C. Street Design Criteria

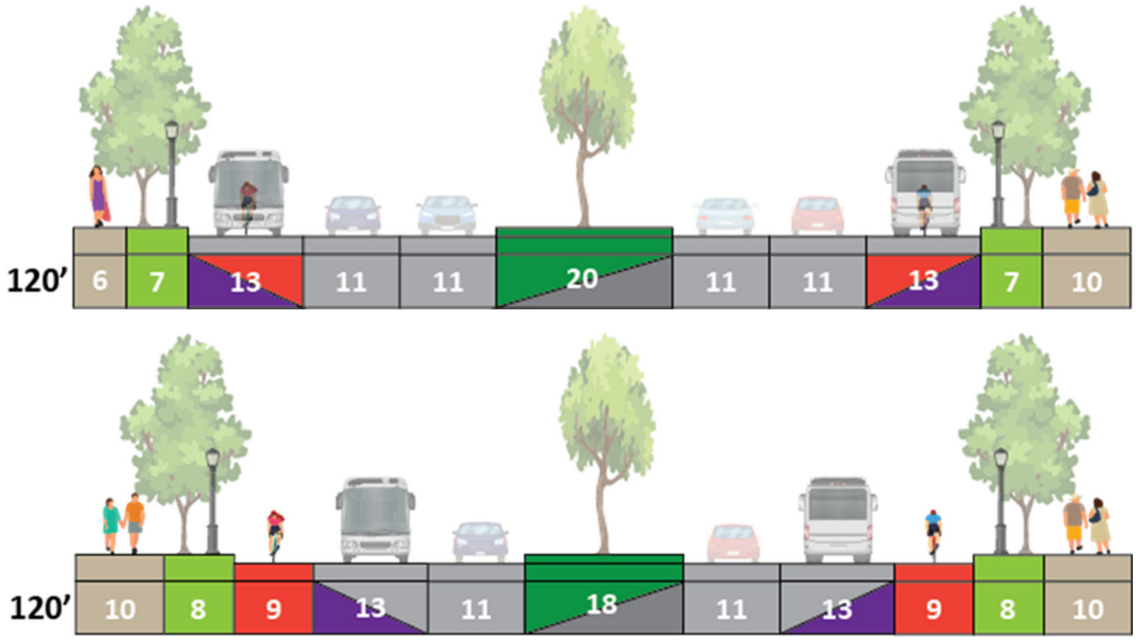
1. This section provides requirements for new construction of a roadway network that provides safe transportation for all modes, along with possible infill alternatives to accommodate reconstruction within limited rights-of-way.
   a) If more than one cross-section configuration is shown below, in Figure 38-2-1- Roadway Cross-Sections, the applicant shall have the option to select the configuration appropriate for the proposed development with consideration of the surrounding neighborhood or area. If there are proposed modifications to the cross-sections outlined within this Code, then the Development Review Committee may approve alternative cross-sections.
   b) The ~~following~~ cross-sections shown in Figure 38-2-1- Roadway Cross-Sections are illustrative ~~are~~ minimums and the Development Review Committee reserves the right to require additional or reduced improvements and/or right-of-way as necessary to meet City goals and plans.
2. The subdivider shall dedicate all rights-of-way in accordance with this section.
   a) Requirements for dedication of rights-of-way and improvement of approach roads, signalization, median breaks, additional lanes, and other traffic mitigation or safety improvements may be increased depending upon the size or density of the proposed development, if the need is demonstrated by a Traffic Impact Analysis, or to accommodate drainage and/or sustainable practices.

3. The roadway network for new subdivisions shall also meet the requirements of any required traffic impact analysis (see **Sec. 38-2.G. Traffic Impact Analysis**).
4. All arterial, collector, and local streets shall include curb and gutter drainage systems. Modifications to the curb and gutter drainage systems are permitted for stormwater harvesting if approved by the Development Review Committee. In the roadway cross-sections contained herein, the curb is included in the parkway or multi-use path/sidewalk and median widths shown herein, while the gutter width is included in the travel lanes. Traffic instruments shall be located within the utilities and street furniture easements.
5. Where required by the City or proposed by the subdivider, any alleys shall be constructed based on the requirements of this section.
6. Facilities for pedestrians and bicyclists must consider urban heat mitigation measures, including but not limited to shade and cooling surfaces, in accordance with the City's Urban Heat Study.
7. Green infrastructure and low-impact development is encouraged whenever possible. See **Sec. 38-4. Low-Impact Development and Green Infrastructure** for more information. The recommendations provided by the National Association of City Transportation Officials (NACTO) in the Urban Street Design Guide Stormwater Management section may be utilized as a reference for the development of green infrastructure along roadways within the City limits.
8. For intersection design, no fire apparatus shall encroach into oncoming traffic without specific approval of the Fire Marshal. An auto turn truck radius diagram shall be required to show a fire apparatus can meet intersection design requirements.
9. The capacity of on-site intersections and facilities shall be sufficient to prevent traffic entering the site from backing up on to the adjacent street.
10. The roadway network shall incorporate any required ADA paratransit (Dial-a-Ride) improvements (e.g., signage, accessible station design) required by the City.
11. All streets, including curb and gutter improvements, sidewalks, multi-purpose paths, streetlighting and all associated costs (subject to the City's adopted cost-sharing policy described in **Sec. 38-2.I.9.b) Developer Responsibility**), and other required infrastructure shall be provided by and at the expense of the subdivider. The subdivider shall dedicate all rights-of-way in accordance with this section and install all improvements in accordance with the standards required by this section. See **Sec. 37-4.D. Substantial Completion** for more information regarding the timing of infrastructure installation.
12. If an arterial or collector is bordering subdivision boundaries with another property owner, the subdivider shall dedicate half the required rights-of-way in accordance with this section and install all required improvements within this area in accordance with the standards required by this section. The limits of the required improvements are not limited to the frontage of the subdivision boundary and may extend beyond the limits of the subdivision to meet the City's safety and street network connectivity goals (e.g., when required by a Traffic Impact Analysis, tapering to align with connecting roadways, etc.).

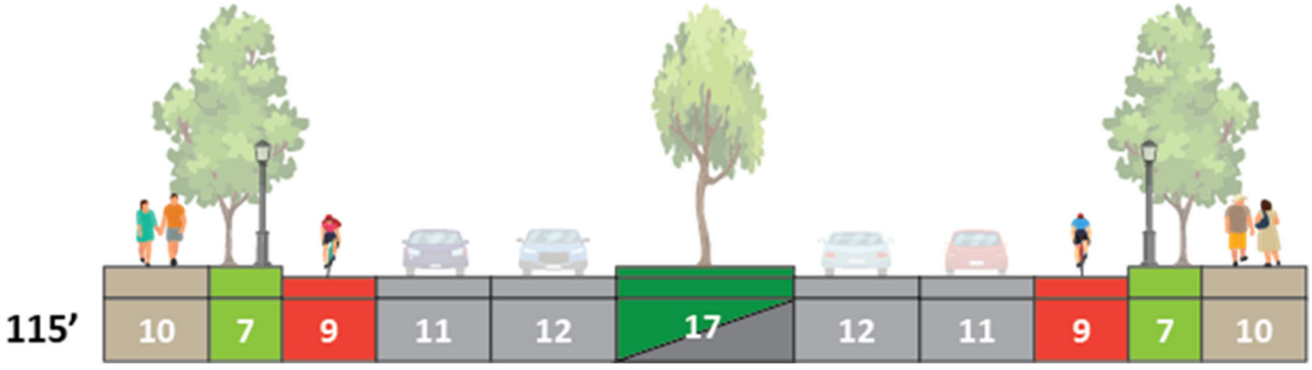
**Figure 38-2-1. Roadway Cross-Sections**

| Element | Description |
|---|---|
| Travel Lane | Travel lanes shall meet the roadway cross-sections widths of this section. The DRC may modify lane widths based on Character Areas, neighborhood characteristics, adjacent land uses, and other factors. For roadways with low travel speeds, the roadway design should include elements that provide for a safe and comfortable roadway for cyclists sharing the road. |
| Parking | A parking lane may be required for new development in Urban Character Areas and Suburban Character Areas. When parking is placed adjacent to a bikeway, the bikeway shall be placed on the street side of the parking lane unless an alternative design is approved by the DRC. |
| Bikeway | Bikeways shall meet the roadway cross-sections of this section. A bikeway facility shall be a buffered or protected bike lane with at least a three-foot buffer and six-foot lane for principal and minor arterials unless modified by the DRC. The DRC may also require physical barriers within the buffer, such as delineators or curbing to provide further protection to bicyclists. |
| Bike + Transit | For Urban Character Areas and Suburban Character Area, the DRC may determine that a dedicated transit lane is required for new development to provide continuous use for transit vehicles. Since bus usage is typically infrequent, the lane can also provide access to bicyclists. Appropriate markings and signage shall be utilized for shared lanes and transit lanes as required by the DRC. |
| Bike + Travel | For Local Streets, the DRC may determine that sharrow marking and appropriate signage be installed for these lanes. |
| Travel Lane + Transit | For Urban Character Areas and Suburban Character Area, the DRC may determine that a dedicated transit lane is required for new development to provide continuous use for transit vehicles. Appropriate markings and signage shall be utilized for transit lanes as required by the DRC. |
| Multi-Use Path/Sidewalk | A multi-use path is a shared path that serves both pedestrians and bicyclists and is the default bicycle facility for new development. Multi-use paths shall have a minimum width of 10 feet, unless modified by the DRC to accommodate infill constraints. Paths narrower than 10 feet are considered sidewalks. At the DRC's discretion, a multi-use path and parkway may be modified in Urban Character Areas to create a wide sidewalk with tree wells exclusively for pedestrian use where the mixing of pedestrian and bicycle traffic may not be appropriate. |
| Parkway | Parkways are an important street design element that provides a buffer between pedestrians/bicyclists and vehicles and supports a zone for street tree installation. At the DRC's discretion, parkway widths may be reduced to accommodate infill constraints. In Urban Character Areas, the DRC may also require tree wells within the parkway to increase the width of the sidewalk zone. |
| Median/ Turn Lane | A median shall be installed based on the cross-sections in this section to serve as a vertical barrier between directions of vehicular travel. The median can also accommodate a left turn lane in certain locations while maintaining an area for a pedestrian refuge. A continuous median is required with no median openings at the time of development unless median opening criteria is met. At the DRC's discretion, a two-way left turn lane may be installed in place of the median for Collectors with four travel lanes or less that have lower traffic speeds and volumes. |
| Center Lane | A two-way left turn lane may be installed in place of the median for Collectors with four travel lanes or less that have lower traffic speeds and volumes. A two-way left turn lane must be approved by the DRC. |

## Principal Arterial

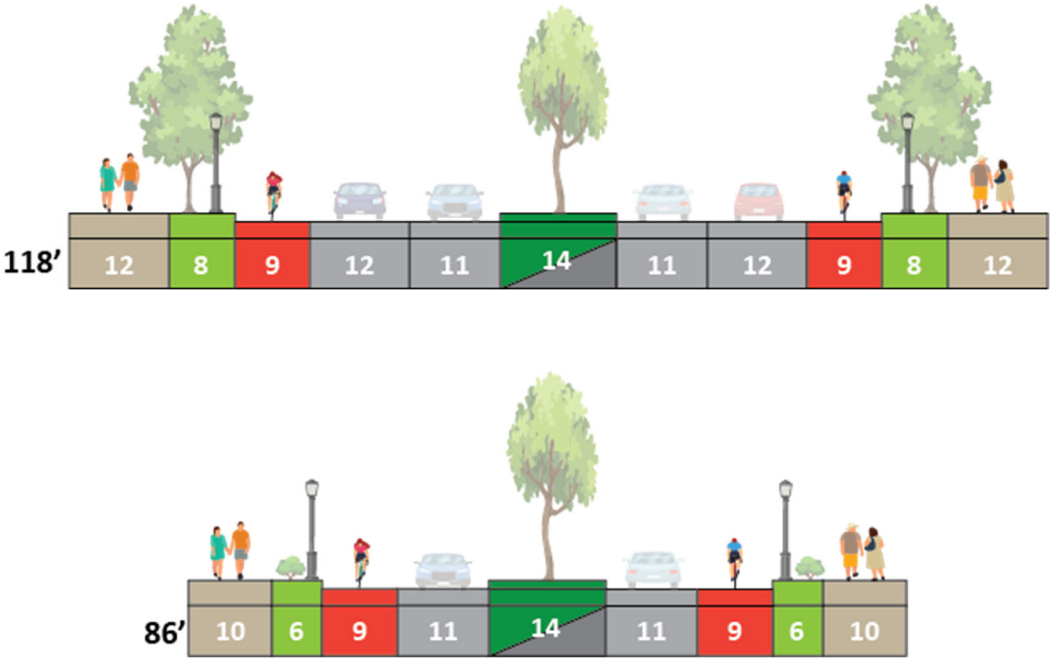



## Minor Arterial



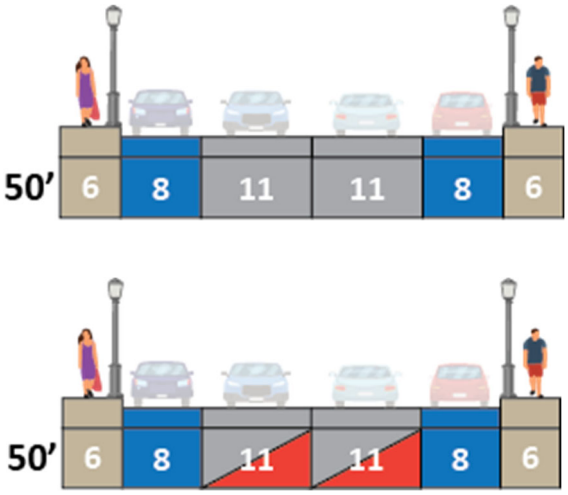

Travel Lane | Parking | Bikeway | Bike + Transit | Bike + Travel | Travel Lane + Transit | Median/ Turn Lane | Multi-Use Path/Sidewalk | Parkway

## Collector

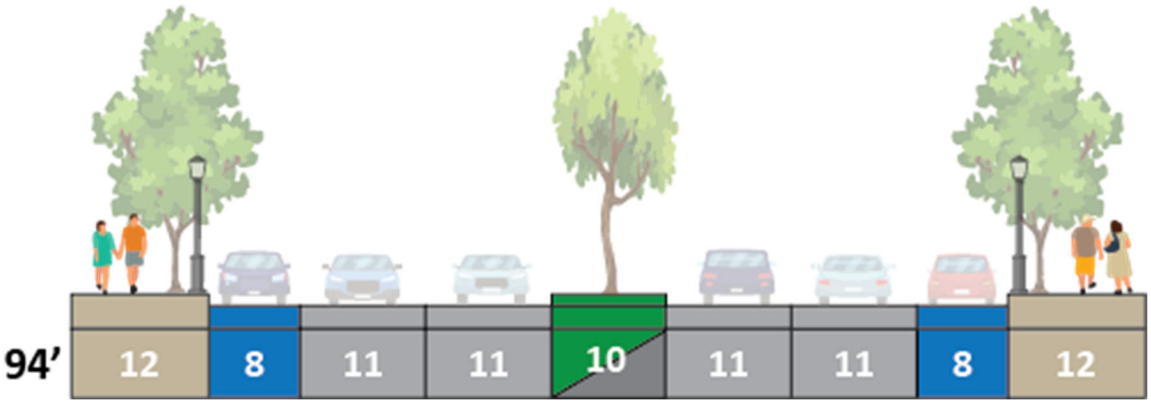



Travel Lane | Parking | Bikeway | Bike + Transit | Bike + Travel | Travel Lane + Transit | Median/ Turn Lane | Multi-Use Path/Sidewalk | Parkway

## Local Street

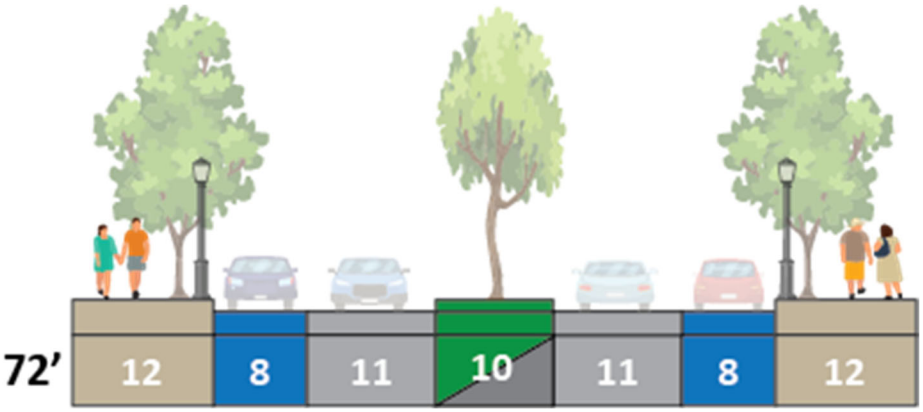



## Boulevard

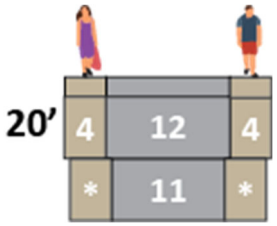



Travel Lane | Parking | Bikeway | Bike + Transit | Bike + Travel | Travel Lane + Transit | Median/ Turn Lane | Multi-Use Path/Sidewalk | Parkway

## Avenue




## Alley




*Asterisk indicates variable right-of-way width based on fire safety or utility needs, as determined by the Fire Marshal or Public Works Director.

Any structures that have alley-only access shall have a 20’ clear paved width alley. The Fire Marshal may require that any structures with alley-only access be fire sprinklered.

Travel Lane | Parking | Bikeway | Bike + Transit | Bike + Travel | Travel Lane + Transit | Median/ Turn Lane | Multi-Use Path/Sidewalk | Parkway

## D. Private Streets

1. Standards

   a) No collectors or arterials as designated by the Comprehensive Plan Future Thoroughfare Map may be a private street.

   b) Construction and development of private streets shall meet the standards for right-of-way width and improvement as applied to public streets. All private streets shall be designed, constructed, and maintained to meet City standards. Property owners are responsible for ensuring ongoing maintenance for private streets, including streetlighting, traffic controls, and other related features.

   c) All traffic control devices and regulatory signs on private streets shall conform to those required on public streets.

   d) Streetlighting shall meet the requirements for public streets and shall be entirely at the expense of the subdivider and subsequent property owners.

2. Waiver of City Services

   The subdivider shall note any waiver of services on the subdivision plat. Certain City services may not be provided for private street subdivisions, including emergency services, street maintenance, law enforcement patrols, enforcement of traffic and parking regulations, preparation of accident reports, and payment of costs for street lighting.

3. Homeowners' Association (HOA) Requirements

   a) The subdivider shall provide for the establishment of a homeowners' association (HOA) to assume the obligation of perpetual maintenance of private streets and other improvements held privately, including a mandatory assessment for such private streets, drainage structures, and any other improvements to be placed on all property owners within the subdivision, allowance for City staff to inspect the streets to ensure they are being maintained to City standards, hold harmless provisions as required in this section, and providing for notice to the City of any amendments to these relevant sections.

   b) The HOA shall clearly mark entrances to all private streets with a sign placed in a prominent and visible location indicating that the streets within the subdivision are private, and not maintained nor regularly patrolled by the City.

   c) All restricted access entrances shall be staffed 24 hours every day, or they shall provide a reliable, alternative means of ensuring access into the subdivision by the City, by emergency service providers, and by other utility or public service providers, such as postal carriers and utility companies, with appropriate identification.

   d) Gates on fire apparatus access roads shall open not less than 20 feet of clear-width for two-way gates and 15 feet of clear-width for one-way gates. The method used to ensure City and emergency access into the subdivision shall be approved by the Fire Department and by any other applicable emergency service providers during the Final Platting process. Gates on private streets shall provide a traffic queue analysis and provide adequate on-street storage in advance of the gate.

      i) If the HOA fails to maintain reliable access, the City may enter the private street subdivision and remove any gate or device that is a barrier to access and bill the expense to the association. If the bill is not paid, the City may file a lien for the expense against any property owned by the association.

   e) The HOA, as owner of the private streets and appurtenances, shall release, indemnify, defend and hold harmless the City, any other governmental entity, and any public utility entity for damages to the private streets that may be occasioned by the reasonable use of the private streets by same, and for damages and injury or death arising from the condition of the private streets, out of any use of access gates or cross arms, damages arising from emergency response, or out of any use of the subdivision by the City or governmental or utility entity.

4. Consideration of City Acceptance of Private Streets

a) Requirements and Conditions

i) The City shall not be required to accept any private streets for public dedication and maintenance.

ii) Such streets must meet the City's current standards or be brought up to the current standards prior to acceptance.

iii) As a condition of accepting the dedication and maintenance of private streets, the City may impose a requirement for repairs and improvements at private expense prior to acceptance, enter into an agreement for an assessment or pro-rata sharing of costs for repairs or improvements prior to acceptance, or other legal or equitable options to ensure that the streets being accepted are not a liability to the City. The City shall be the sole judge of the nature and extent of repairs or improvements needed.

iv) The City may also require, at the sole expense of the association's or property owner's expense, the removal of any guard houses, access control devices, landscaping, or other amenities located within the streets or common areas prior to City acceptance.

b) Consideration Process

i) The HOA may petition the City to accept private streets and any associated property as public streets and right-of-way upon written notice to all association members, and the favorable vote of a majority of the membership.

ii) The HOA shall supply documentation that the roadways were originally built to the City's Construction Standards or have been brought into compliance in accordance with **a)ii)** above.

iii) A Final Plat shall be submitted to the DRC for review and recommendation, then submitted to the City Attorney for review and approval prior to submission of this request to the Planning & Zoning Commission and City Council. City Attorney approval is required prior to review by the Planning & Zoning Commission and City Council.

iv) The Planning & Zoning Commission shall consider the request and forward a recommendation to City Council. The City Council shall make their decision based on the public health, safety, and welfare considerations of the community.

## E. Street Layout

1. Applicability

New subdivisions shall be supported by a connected street layout that provides for enhanced traffic circulation, interconnectivity, and low traffic speeds. The roadway network for new subdivisions shall meet the International Fire Code and the following requirements in this section.

2. Street Hierarchy

Higher classification roadways will connect to lower classification roadways to promote safer traffic speeds and multimodal connectivity.

a) Arterials may connect to Arterials and Collectors.

b) Collectors may connect to Arterials, Collectors, and Local Streets.

c) Local Streets may intersect/connect as necessary to improve neighborhood/activity center access, connectivity, and public safety.

3. Roundabouts and Traffic Circles

a) Roundabouts or traffic circles shall be the standard form of traffic control provided at all new and reconstructed intersections that meet MUTCD warrants for the installation of all-way stop control or a traffic signal.

i) Exception: The Public Works Director may determine that another configuration is preferable in certain situations.

b) The design of all roundabouts and traffic circles shall be reviewed and approved by the Public Works Director and Fire Marshal.

4. Cul-de-Sacs and Dead-End Streets

a) Cul-de-sac streets are discouraged unless necessary to preserve natural and/or environmentally sensitive features (e.g., drainageways, protected trees) as determined by the Community Development Director.

b) No cul-de-sac shall exceed the length as in **Figure 38-2-3**.

c) No cul-de-sac in any unsprinklered single-family subdivision shall serve more than 25 single-family dwelling units.

i) For purposes of this paragraph, cul-de-sac length shall be measured along the centerline of the cul-de-sac from a point beginning at the intersection of the cul-de-sac street with the centerline of the street from which it extends to the center of the turnaround at the end of such cul-de-sac. For the purposes of measurement, either a full four-way intersection or a three-way intersection shall be considered an intersection.

**Figure 38-2-2. Cul-de-Sac Length Measurement**

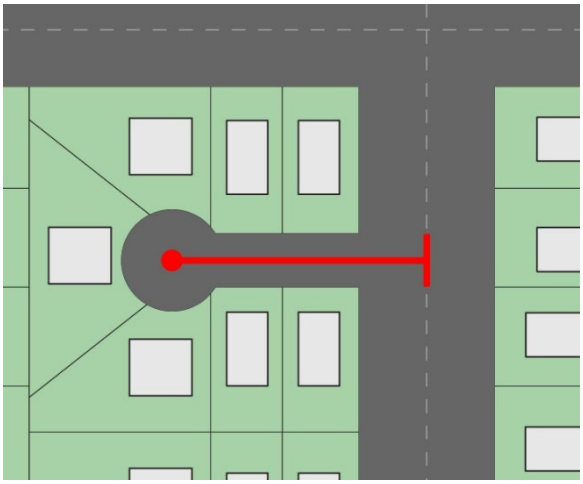


**Figure 38-2-3. Width for Cul-de-sac Streets for Certain Activities**

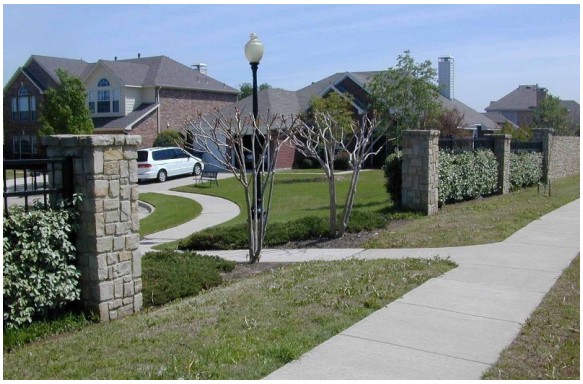
| Activity Served | Cul-de-Sac Paving Width* | Cul-de-Sac Right-of-Way Width | Cul-de-Sac Maximum Length | Turnaround Paving Width* | Turnaround Right-of-Way Width |
|---|---|---|---|---|---|
| 1—25 residential dwellings | 38’ | 56’ | 600’ | 96~~0~~’ diameter | 110’ diameter or 100’ with 12’ sidewalk and utility easement** |
| All Other Development | 38’ | 54’ | 600’ | 96~~0~~’ diameter | 110’ diameter or 100’ with 12’ sidewalk and utility easement** |
| LI, Light Industrial District (Rural, Suburban, Urban) or HI, Heavy Industrial District (Rural, Suburban, Urban) | 40’ | 62’ | 600’ | 100’ diameter | 120’ diameter |

*Measured to lip of curb

**Shall be a minimum of 12’ of right-of-way or right-of-way/easement combination behind curb

d) A cul-de-sac is only permitted if pedestrian and bicycle access is provided to an adjacent or nearby park, roadway, trail, or City-dedicated open space (see example in **Figure 38-2-4**). A minimum ten-foot paved path shall be dedicated and improved to provide pedestrian and bicycle access between the cul-de-sac and adjacent or nearby park, roadway, trail, or City-dedicated open space.

**Figure 38-2-4. Cul-de-Sac with Pedestrian Connection**



e) No dead-end streets will be approved unless the streets are provided to connect with existing streets or future platted streets on adjacent land. In the case of dead-end streets that will eventually be extended into the adjacent property, no more than one lot (per side) can front onto the dead-end street stub unless a temporary turnaround bulb is provided. A temporary dead-end street shall not exceed the maximum allowed length of a normal cul-de-sac, and the temporary turnaround bulb must be constructed based on the standards of a cul-de-sac. Signage shall be provided at the street stub identifying the stub as a future connection.

5. Block Length and Perimeter

a) Measurements shall be calculated along the centerline of the street from the centerline or center point of one intersection to the centerline or center point of the next intersection to include knuckles and/or turns and curves, including a three- or four-way intersection or a curve that exceeds 75 degrees, as shown in **Figure 38-2-5**.

b) The maximum length of any block or street segment shall be as shown in **Figure 38-2-6**, based on the location's Character Area. These requirements do not apply to frontages along arterial streets.

**Figure 38-2-5. Measurement of Block Lengths and Perimeters**

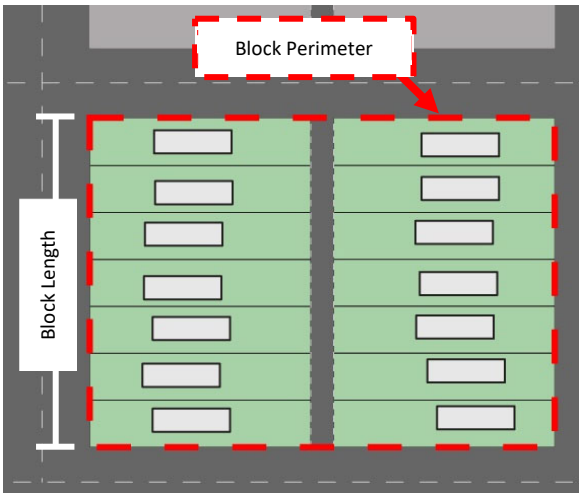



**Figure 38-2-6. Maximum Block Lengths and Perimeters**

| Character Area | Max. Block Length | Max. Block Length with Traffic Calming Measures approved by the DRC* | Max. Block Perimeter |
|---|---|---|---|
| Urban Character Area | 400' | 600' | 2,200' |
| Suburban Character Area | 660' | 800' | 3,000' |
| Rural Character Area | 900' | 900' | N/A |

*The Development Review Committee may require additional traffic calming measures based on the design of the blocks and roadway network of the subdivision. Continuous streets with no traffic control may require traffic calming.

6. Traffic Calming

   a) New development shall implement traffic calming measures as required in the Traffic Calming section of the Technical Manual and the Speed Management Policy for Arterials and Non-Residential Collectors.

   b) Arterial, collector, and local street traffic calming implementation, such as roundabouts, shall be installed at the time of roadway development and as approved by the Public Works Director and Fire Marshal based on FHWA guidelines and City requirements.

7. Alleys

   a) Alleys are permitted in all new development and redevelopment projects.

      i) If alley access is provided, then the Development Review Committee may modify the required street cross-section to reduce the right-of-way and/or pavement width accordingly.

   b) Where the average lot width along a block face averages 20 feet or less, the lots shall be rear-loaded with alley access.

      i) Exception: Townhouse lots may be narrower than 20 feet and front-loaded.

   c) The following general requirements apply to alleys:

      i) Alleys shall be as nearly parallel to the street frontage as reasonably possible.

      ii) Alley intersections with streets shall be at right angles.

      iii) Alleys shall not be platted to intersect with arterial or collector streets.

      iv) Dead-end alleys shall not be permitted unless a permanent or temporary turnaround is provided.

      v) Alleys forming the boundary of a subdivision, and adjacent to unplatted property, shall be dedicated and improved the same as if situated in the interior of a subdivision.

8. Alignment, Offsets, and Spacing

   a) Arterials and collectors shall be spaced and aligned in a continuous network that is in a rectilinear pattern. Intersections shall be square, both vertically and horizontally. Street approaches shall be at a 90-degree angle for a length = Intersection Sight Distance (see **H. Clear Sight Triangle**) * 1.5 measured from the center of the intersection.

   b) Offsets for local streets shall be limited to a minimum spacing of 200 feet from centerline to centerline. Offsets between streets may be addressed by roundabouts if approved by the Public Works Director.

   c) Principal arterials shall be spaced at least two miles apart, minor arterials at least one mile apart, and collectors at least one-quarter mile apart.

## F. Access Management

1. Applicability

   a) All new development shall comply with the access management provisions of this section, including roadway network connectivity and driveways. All driveways shall be installed on public and private streets in accordance with this section, which defines access widths, spacing and offsets. No person shall construct a driveway without first obtaining a permit from the City.

   b) Where multi-use paths are utilized, driveway access will be limited to minimize conflicts between vehicles and pedestrians/bicyclists.

2. Purpose

   This section provides controls for access management and driveways for residential and nonresidential areas. The purpose of access management controls is to ensure safe ingress/egress, promote convenient access between adjacent sites, and lessen congestion on roadways.

3. Generally

   a) Access point design should be compatible with the function of the roadway since the number, spacing, type and location of access points has a significant effect on capacity, speed, and safety.

   b) Consolidated access points, including the requirement of a dedicated access point via roadway (public or private) or alley to serve all subdivided lots, shall be required for large parcels (e.g., shopping centers or other multi-tenant developments) to reduce conflict points between pedestrians, cyclists, and vehicles.

   c) Construction of all access points, regardless of existing curbs or curb cuts, requires a site plan, which shall be provided to the Community Development Department and Public Works Department if applicable for approval prior to building permit issuance.

   d) The approval of access permits may be granted if both the design and the construction of driveways and median openings are compatible with the intended function of the roadway facility, as defined in this section.

   e) Access management shall meet the following requirements:

      i) Appropriate Throat Lengths

      Appropriate throat lengths (both unobstructed and with cross traffic permitted) for ingress and egress points, stacking and queuing lanes, pedestrian accommodations, bicycles facilities, and any facilities or accommodations which could impact traffic operations along the adjacent roadways or overall traffic safety. The internal circulation system should be designed to preclude stacking or queuing in the travel lanes of adjacent roadways.

      ii) Internal Vehicle Circulation (Internal Roadway Network)

      Internal circulation is the means by which vehicular traffic is delivered between entry points and parking areas, pick-up/drop-off points, and service areas. Internal circulation roadways should permit access between all areas. These roads should be designed to safely and efficiently deliver vehicles and pedestrians to their respective destinations.

      iii) Service and Delivery Vehicles and Access to Waste Containers

      Service and delivery vehicles require separate criteria for movement to and from the site and loading docks – location, size, number, turning movement exhibits, ease of access from street/alley/internal road/parking lot, loading areas. Of particular interest is that adequate turning paths are provided for large service vehicles to allow entry and exit without encroaching upon opposing lanes or curbed areas.

      There should be sufficient separation between external and internal circulation roads so large vehicles can be queued on entry or exit without blocking access to parking spaces or internal roadway circulation systems and include swept path analysis for designated driveway from the public roadways (both ingress and egress and both directions) and loading docks and/or dumpster(s). The number of loading berths provided should be sufficient to accommodate anticipated service and delivery activity.

      iv) Emergency Vehicles Access

      Emergency vehicle access shall comply with the requirements for the most recently adopted International Fire Code Section 503. Fire Apparatus Access Roads.

      v) Queuing Analysis

      Adequate internal and external vehicle queuing storage is crucial for safe and efficient access and circulation.

      For any development, appropriate vehicular queuing should be provided at all access drives. In small developments, parking areas and access points should be designed to allow vehicles waiting to exit to align perpendicular to the off-site roadway system. In large developments, queuing areas should be spacious enough to prevent stored vehicles from obstructing internal circulation and to enable drivers to enter a signalized intersection with minimum headways for maximum flow rates. Queue storage within parking

facilities or parking areas should allow vehicles to enter and come to a stop without blocking internal circulation or causing traffic backups on the off-site roadway. Drive-through establishments like banks, car washes, and fast-food restaurants should have sufficient capacity to accommodate normal peak queues. Since many of these businesses have major daily or seasonal variations in activity, peaking characteristics should be carefully evaluated.

vi) Parking Requirements

The parking provided by the project must be adequate to meet the anticipated use of the site. Off-street parking shall be provided in accordance with **Sec. 38-2.N. Off-Street Parking**. In some cases, special parking demand studies may be provided to assess the adequacy of the parking per ITE guidelines or data from at least three similar sites. Proper parking layout shall not affect traffic flow and operations on the external street systems and internal circulation.

vii) Pedestrian, Transit, Bicycles, and Handicapped Facilities

The overall site plan should also consider public transportation, pedestrians, bicyclists and those with disabilities. Adequate facilities for parking bicycles should be included. Transit facilities, carpool parking, and shuttle bus staging areas should be provided as appropriate for the development. Where provided, these facilities should be located adjacent to service drive and entrance locations, at key locations along circulation drives, or at major pedestrian focal points along the external roadway system. Pedestrian connections between these facilities and the site's buildings must be integrated into the overall project design, and provide maximum accessibility through the use of sidewalk ramps, etc. These connections must also be provided to the public sidewalk, path, or trail systems surrounding the site.

4. Residential Lot Access and Frontage

a) Within the Urban Character Area, where a subdivision abuts or contains an existing or proposed Arterial Street or Collector Street, lots, including residential lots, shall front onto the Arterial Street or Collector Street with the following requirements:

i) Lots shall be accessed from an alley at the rear of the property.

ii) Lots shall not have driveway access to the arterial or collector street.

iii) There shall be a multi-use path along the entire face of the block with lots facing the arterial or collector street.

The Development Review Committee may waive the requirement for frontage onto existing arterial or collector streets where it is determined that, due to existing development or other unique situation, frontage onto an arterial would be overly burdensome to the landowner, result in double frontage lots, or jeopardize the public's health, welfare, and safety.

b) In all areas, residential driveways serving four or fewer units shall not have direct roadway access to an Arterial Street or Collector Street.

5. Subdivision Access Points

   a) All subdivisions shall provide vehicular access to principal arterials, minor arterials, collectors, and/or local streets to provide safe and efficient operations for pedestrians and bicyclists.

   b) The minimum number of access points shall be determined by a Traffic Impact Analysis and/or the Fire Code from the residential subdivision to the arterial or collector streets. The minimum number of access points shall be as identified in **Figure 38-2-7** or as required by the Fire Code, whichever is greater.

   c) Street stubs shall be credited as access points when ingress or egress to a development is available only from a single road on which the subdivision has less than 250 feet of frontage.

**Figure 38-2-7. Minimum Access Points**

| Development Type and Size | Min. Number of Access Points |
|---|---|
| Primarily Residential Uses | |
| Less than 30 units | 1 |
| Between 30 and 80 units | 2 |
| More than 80 units | 3 |
| All Other Uses | |
| Less than 5 acres | 1 |
| Between 5 and 20 acres | 2 |
| More than 20 acres | 3 |

      i) The provision of additional access points is not possible due to existing lot configurations, the absence of connecting streets, or environmental or topographic constraints;

      ii) The New Mexico Department of Transportation will not authorize additional access points;

      iii) Alternative access can be provided in a manner acceptable to the City that is supported by a Traffic Impact Analysis; or

      iv) All structures are equipped with fire sprinkler systems.

6. Connection to Adjoining Platted Right-of-Way

   The arrangement of streets in a development shall provide for the alignment and continuation of existing or proposed streets into adjoining lands where the adjoining lands are developed and have right-of-way platted for such connections.

7. Connection to Adjoining Undeveloped Lands

   The arrangement of streets in a development shall provide for the alignment and continuation of existing and proposed streets into adjoining lands where the adjoining lands are undeveloped and/or deemed appropriate for future development. Streets providing connection into such adjoining lands shall comply with the following:

   a) The arrangement of streets and blocks on the periphery of the development shall reasonably accommodate future development on the adjoining lands that complies with the standards in **E.5. Block Length**,

   b) Dead-end streets shall provide a temporary turnaround constructed to City standards (see **Sec. 38-2.E.4.e)**),

   c) The platting of partial width rights-of-way is prohibited except where the remainder of the necessary right-of-way has already been platted, dedicated, or established by other means, and

   d) The Final Plat shall identify all such streets (street stubs) and include a notation that all street stubs are intended for connection with future streets on adjoining lands.

8. Cross-Access Between Adjoining Multifamily, Nonresidential, and Mixed-Use Developments

   a) General

      i) New development shall be served by a system of sidewalks, paths, greenways, roadways, accessways, and other facilities designed to provide for multiple travel modes (motor vehicle, transit, bicycle, and pedestrian), based on the development's size and character, zoning district, and relationship to

development and development patterns in surrounding areas, and existing and planned community transportation systems.

a. The Development Review Committee may waive certain facilities for smaller developments.

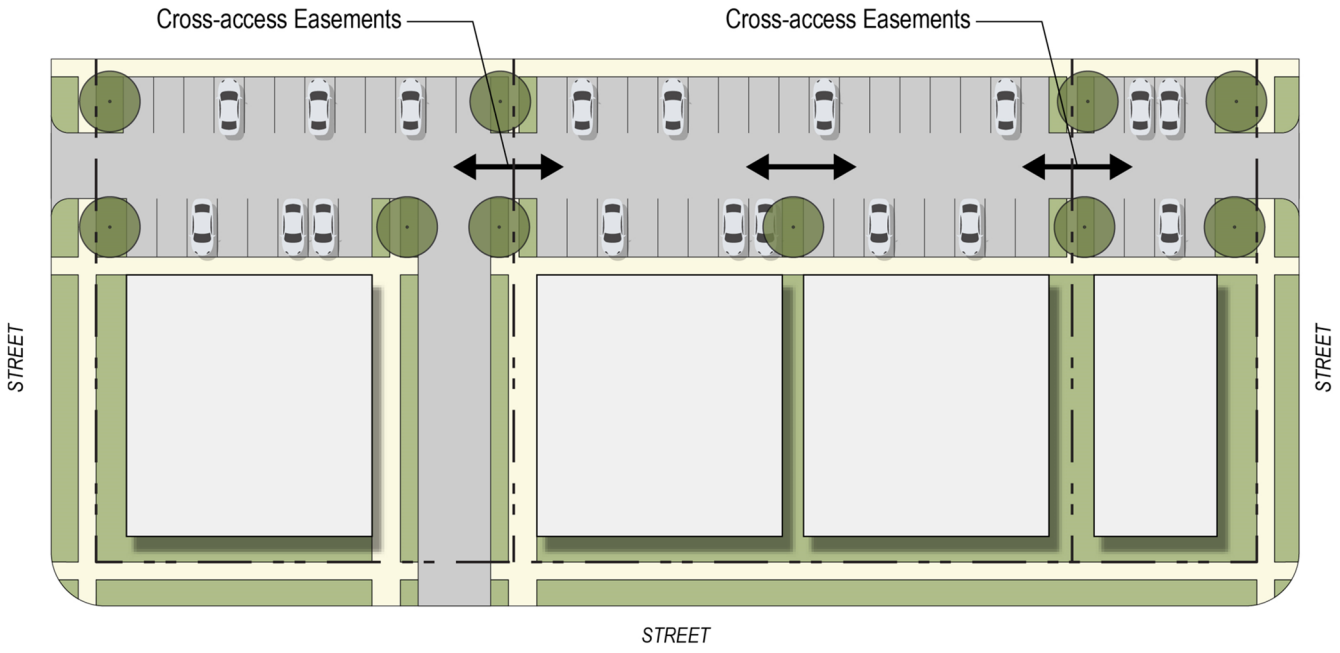
ii) Motor vehicle, transit, bicycle, and pedestrian access and circulation systems shall be coordinated and integrated to provide the development's occupants and visitors transportation options and to enhance safe and efficient mobility throughout the development and the community.

b) Pedestrian and Bicycle Cross-Access

i) Each internal pedestrian and bicycle circulation system in new multifamily, mixed-use, or nonresidential development, shall be designed and maintained to allow for pedestrian and bicycle walkway cross-access between the development's buildings and parking areas and those on adjoining lots containing multifamily, nonresidential, or mixed-use development and to vacant lands.

a. The Development Review Committee may modify the pedestrian and bicycle cross-access requirements upon determining that such cross-access is impractical or infeasible due to the presence of topographic conditions or built or natural features.

**Figure 38-2-8. Example of Cross-Access**




c) Parking Lots Cross-Access

i) Each internal vehicular circulation system in new nonresidential and mixed-use development shall be designed and constructed to provide vehicular cross-access between any parking lots within the development and any parking lots on adjoining parcels containing nonresidential or mixed-use development, and to the boundary of adjoining vacant land. The cross-access shall consist of a driveway or drive aisle(s) at least 27 feet wide or otherwise designed to accommodate a fire apparatus.

ii) Easements allowing cross-access to and from lands served by a vehicular cross-access, along with agreements defining maintenance responsibilities of landowners pertaining to the vehicular cross-access, shall be recorded by the landowner with the Doña Ana County Clerk's Office.

iii) The Development Review Committee may modify the parking lots cross-access requirements upon determining that such cross–access is impractical or undesirable due to the presence of topographic conditions, natural features, or vehicular safety factors.

9. Driveways

a) Driveway Design Elements

Required design criteria are presented in this section to define access widths, spacing, and offsets.

i) All Driveways

a. Driveway design shall comply with the NCHRP Report 659 – Guide for the Geometric Design of Driveways.

b. Driveways shall align with opposing streets and driveways if no raised center median exists on the cross street. However, if it is not technically feasible to align with existing driveways and intersections, proposed driveways shall meet the minimum distance requirements from adjacent street intersections and driveways as specified in **Figure 38-2-11. Minimum Commercial Driveway Spacing by Intersection Type**. The distance from adjacent driveways and intersection shall be sufficient to minimize driveway blockage from queue over-flow from adjacent intersections.

c. Driveways shall intersect at 90-degree approach angles to the primary direction of the abutting roadway, where applicable.

d. The number of driveways should be sufficient to provide adequate driveway capacity for the site yet kept to a minimum to reduce traffic conflicts. Access driveways shall intercept traffic approaching the site as efficiently as possible while providing adequate inbound and outbound access capacity.

e. Abutting properties shall share driveways and driving aisles. A written agreement shall establish the conditions of joint use, of maintenance requirements and of ingress/egress requirements. These agreements shall be approved as to form and content by the City Attorney and Community Development Director and must be referenced on the Final Plat, Site Plan, and/or Certificate of Occupancy. The agreement shall be properly executed by the owners of all affected properties, filed by the owners, and provided to the City once completed.

f. The design of driveways shall ensure that the minimum recommended horizontal and vertical intersection sight distance is adequately provided as defined in the latest edition of AASHTO's A Policy on Geometric Design of Highways and Streets. Adequate sight distances at driveways may include the addition of safety-related improvements including but not limited to right turn lanes, pork chop islands on the side street, slotted left turn lanes on the mainline or other traffic control devices.

g. Acceleration and deceleration lanes may be required on the City street for the access driveway as determined by the New Mexico State Access Management Manual.

h. If a driveway is proposed to be signalized, it should be located to facilitate traffic progression past the site. A signal progression analysis may be required for signalized driveways. Curb re-turn type access is allowed for signalized driveways. The Public Works Director may require additional analysis or improvements for signalized driveways.

i. Minimum throat length based on the type of control and number of lanes in the NCHRP Report 659 Exhibit 5-55 shall be met.

j. All access or driveway locations are subject to Public Works Director approval.

k. The Development Review Committee may modify any provision within this section upon determination that an alternative configuration would produce a more desirable outcome based on topographic conditions or other site-specific features.

ii) Residential Driveways

a. A residential driveway is an entrance to and/or exit from a residential dwelling or dwelling adjacent to a dedicated street, for the exclusive use and benefit of the residents. For driveways serving more than one dwelling on a lot (e.g., duplexes), a shared driveway is encouraged to minimize curb cuts.

b. Driveway widths shall be measured on the property line and no apron shall be closer than six feet from side property lines, except when serving adjacent properties. Driveways shall not be permitted in the taper area of any right-turn lane or any part of a right-turn lane.

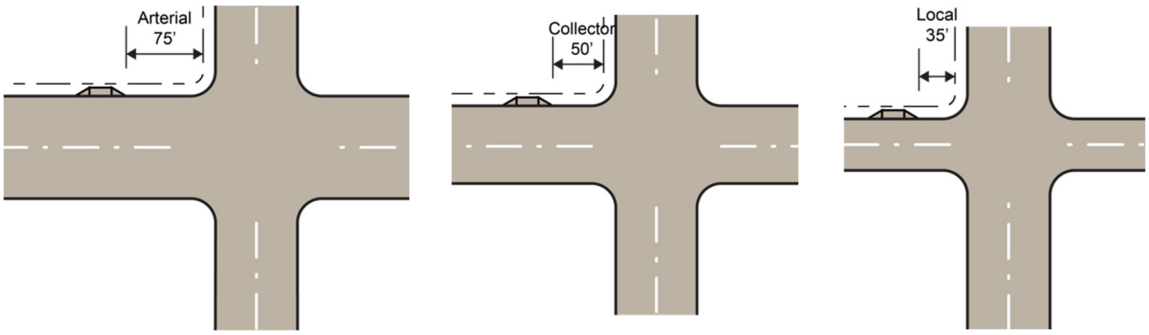
c. The minimum width of a driveway apron shall be 12 feet and the maximum width shall be 27 feet.

d. A minimum of 22 feet of standing curb must remain between any two driveways located on the same lot or single parcel of land.

e. No double or circle driveways shall be installed for lots that are 58 feet or less in width.

f. A corner property driveway apron shall be no closer than 35 feet from the property line at the intersecting local street, 50 feet to the property line along collector streets, and 75 feet to the property line along arterial streets (see **Figure 38-2-9. Minimum Residential Driveway Spacing by Street Type**). Under no condition shall driveways encroach on corner curb returns of intersections or within five feet from handicap access ramps.

**Figure 38-2-9. Minimum Residential Driveway Spacing by Street Type**




g. All driveways shall extend from any street, alley, or curbline to any garage, carport, or parking space. The slope of a driveway should start from the property line towards~~face of the curb at the gutter to~~ any garage, carport or parking space and not include the sidewalk. ~~shall be no greater than 10 percent for the first 12 feet, and not greater than fourteen percent for any distance thereafter~~. The vertical transition of the driveway shall be designed to prevent contact of any vehicle undercarriage or bumper with the surface. No vehicle may overhang into or block any portion of a sidewalk.

iii) Commercial Driveways

a. A commercial driveway is an entrance to and/or exit from any commercial/industrial/institutional/office business, or similar type of establishment providing access by employees and/or the public adjacent to a dedicated street. For the purposes of this section, commercial driveways also apply to multifamily buildings with five or more units.

b. Driveway widths shall be measured on the property line.

**Figure 38-2-10. Driveway Apron Width**

| Street Accessed | Minimum | Maximum |
|---|---|---|
| Arterials | 30 feet | 40 feet |
| Collectors | 30 feet | 40 feet |
| Local Streets | 25 feet | 35 feet |

c. The width of two-way driveway aprons shall be based on the classification of the roadway that is being accessed (see **Figure 38-2-10**).

d. The width of one-way driveway aprons shall be a minimum of 15 feet per access lane. Gates on fire apparatus access roads shall open not less than 20 feet of clear-width for two-way gates and 15 feet of clear-width for one-way gates.

e. A minimum of five feet of standing curb must remain between one-way curb cuts.

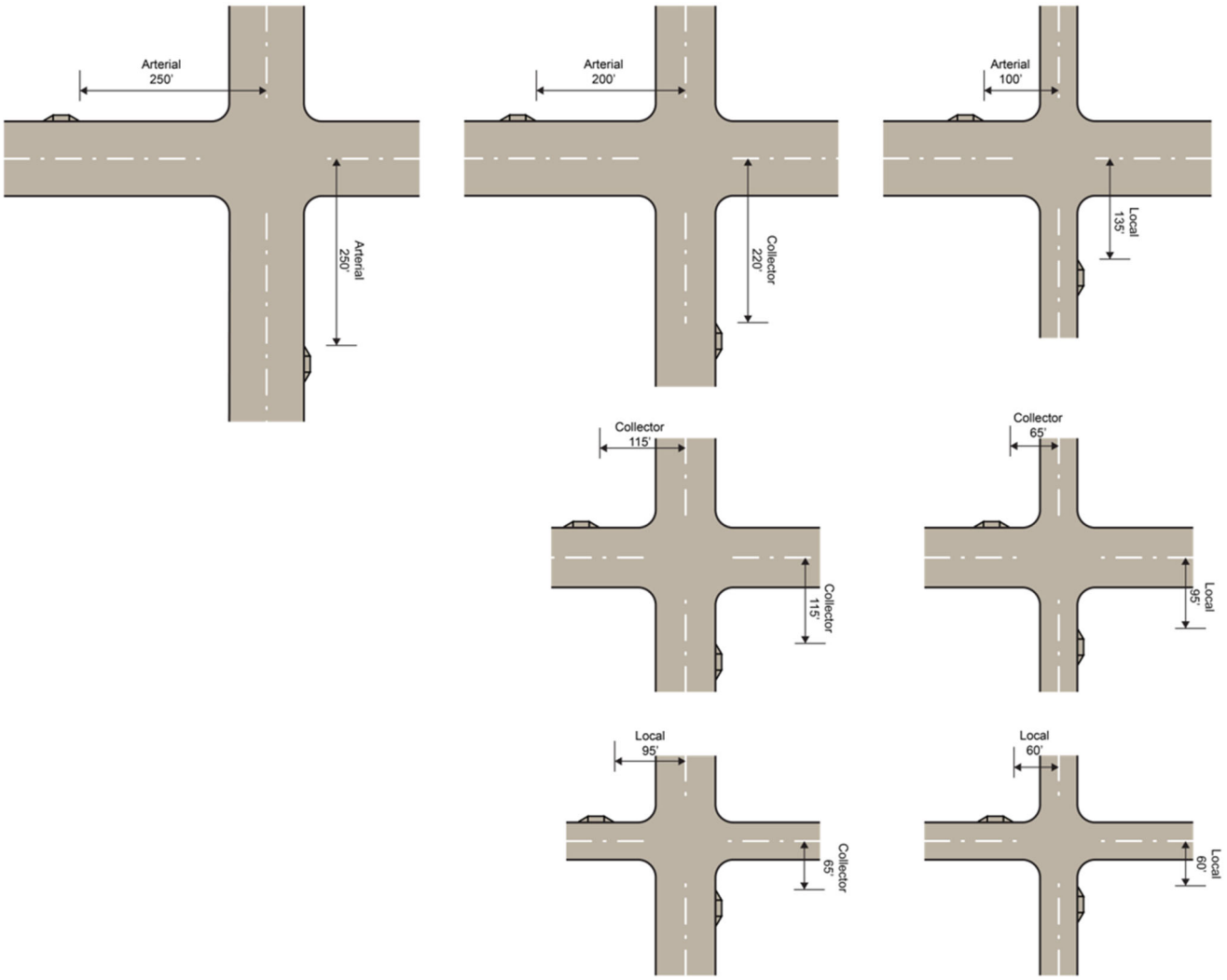
f. Driveway distances to adjacent intersections shall meet the minimum requirements, measured in feet, as shown in **Figure 38-2-11** based on classification of both intersecting streets. The distance is measured from the center of the intersection to the edge of the driveway apron closest to that intersection. These should be considered minimum values whereby longer distances may be required if justified by an engineering study and queuing analysis. Note that if access is along a highway under the authority of the New Mexico State Transportation Department, criteria in accordance with the State Access Management Manual, shall apply. In addition, minimum driveway spacing shall meet corner clearances and Intersection Sight Distance (see **Sec. 38-2.H. Clear Sight Triangle**).

g. Distances shall be measured from the inside edge of the pavement of each driveway or the edge of the intersecting street travel lanes.

h. No driveway shall be closer than ten feet from side property lines, except when serving adjacent properties.

i. When a property is at the corner of two streets, access shall be provided along the intersecting street with the lower classification. For example, if the property is at the intersection of a principle arterial and local street, access shall be from the local street unless access is approved by the Public Works Director on the street with the higher classification.

**Figure 38-2-11. Minimum Commercial Driveway Spacing by Intersection Type**




j. The location of driveways serving adjacent properties will be reviewed to ensure that they do not create conflicting traffic movements or pose sight distance problems for turning traffic. Where feasible, driveways that serve adjacent properties should be combined into one driveway. Developer must show, in plans, all existing or planned driveways on adjacent properties.

k. The access turning radii shall accommodate the turning radius of the largest design vehicle to routinely use the access. Pedestrian safety across the curb cut also needs to be considered for significantly wide access points. Coordination shall occur with Dial-a-Ride vehicles and other transit related functions to ensure that there is sufficient turning radii to support transit vehicles.

l. A 50-foot minimum turning radius shall be used for an access when combination trucks or single unit vehicles exceeding 30 feet in length are intended to use the access on a daily basis.

m. Construction of all driveways shall comply with the Design Standards and Standard Specifications for Road Construction within the Technical Manual as well as accessibility standards in place at time of building permit issuance.

n. The permittee is responsible for all costs associated with placement and/or removal of driveways accessing public right-of-way. This is to include restoration of existing landscaping, road surfacing, and sidewalk area.

o. Warrants for deceleration and acceleration lanes along with the associated design dimensions at driveway locations shall be in conformance with criteria from the New Mexico Department of Transportation's State Access Management Manual, current edition. The location and dimensions of such shared driveways shall be determined by the Public Works Director. The Public Works Director may require a study to demonstrate that a shared mutual access easement is required for the driveway based on the location and dimension of the proposed shared driveway.

b) Abandonment, Removal, and Restoration Requirements

i) Abandoned Driveways and Median Openings

If any vehicular crossing, other sidewalk crossing, or median opening is clearly abandoned as a crossing, or is no longer used for its intended purpose, any permit previously or hereafter granted for said crossing or median opening as such shall be subject to revocation by the Public Works Director with written justification, only after 60 calendar days written notice of such proposed revocation has been given to the owner of the property to which the crossing or median opening is appurtenant. The owner's name and address will be determined from the Assessor's Office of Doña Ana County. Written notice also will be given to the occupant of said premises, if any, if such occupant is other than the owner. It shall be sufficient notice under the provisions of this and the following section to mail said notices by certified mail with return receipt requested. In the event the name and address of the owner cannot be reasonably ascertained from the assessor's office, and the premises are unoccupied, it shall be sufficient notice to publish said notice in a newspaper of general circulation in the City of Las Cruces, once a week for four consecutive weeks.

a. For the purpose of this paragraph, a crossing or median opening is "clearly abandoned" if there has been no vehicular use of the driveway, crossing, or median opening for a period of at least 24 months.

ii) Removal and Restoration Requirements

In the event the Public Works Director has revoked any permit for a driveway, use of a sidewalk crossing or median opening under the provisions of **i)** above, due to changes taking place within said property, crossing or median opening shall be removed at the expense of the owner of the property. The written notice of revocation shall also set forth requirements for the removal and proper restoration of the curb, sidewalk or median opening. The time allowed for removal and restoration by the owner or occupant shall be 60 days after notice in the cases provided for in **i)** above; provided, however, that upon resolution duly passed by the City Council, that a traffic hazard exists at a nonconforming driveway or median opening which causes imminent danger to life and safety of property, then conformance may be required within a lesser period of time as set by the City Council, but in no event less than 30 days. Each day's delay of the owner in complying with such notice, after the expiration of the time specified, shall constitute a separate violation of this article. If conformance is not attained within the time allotted, the City may make the necessary removal and restoration and the cost thereof shall constitute a lien on said property in the amount of the cost of the required improvements.

10. Median Openings

The location of openings in a median, to allow left-turn ingress and egress movements at a driveway or local street, will be based on the type and operating speed of the roadway, the volume of traffic expected to make the left-turn movements, and the location relative to other intersecting streets, driveways, and median openings. All requests for median cuts or alterations shall be made at the time of request for a building permit, and shall be included on the construction plans.

a) Median Opening Priority

All median openings for City street intersections shall take priority over commercial access in determining location of median openings.

b) Analysis of Median Opening

i) To justify a new median opening, a traffic impact study that defines the ability of the roadway and the driveway to accommodate the opening shall be prepared by a professional engineer in the State of New Mexico, retained by the firm or individual requesting the median opening. The analysis shall include, but not be limited to, the following information:

a. The impact(s) to the operation of adjacent signalized and un-signalized intersections within 500 feet of the proposed opening shall be considered in the analysis.

b. Adequate sight distance requirements for intersections, based on AASHTO criteria.

c. Analysis of potential conflicting vehicular, pedestrian, and bicycle movements with recommendations for eliminating those conflicts.

ii) Shared access points for two or more adjacent individual parcels are required. Future development of adjacent parcels must be considered in determining the opening location.

c) Minimum Median Opening Design Standards

i) Minimum Spacing

A minimum median spacing of 300 feet from adjacent openings shall be required on all collector streets. On arterial streets, spacing shall be as shown in **Figure 38-2-12** if approved by the Public Works Director based on the Traffic Impact Analysis (TIA) Guidelines within the Technical Manual. The Public Works Director may require a study or Traffic Impact Analysis justifying the need. This distance shall be measured from face of curb to face to curb.

**Figure 38-2-12. Median Opening Spacing**

| Street Type | Min. Spacing |
|---|---|
| From Intersection with Arterial or Collector | 500 feet |
| All Other Openings | 300 feet |

a. The Public Works Director may reduce the 500-foot required spacing to allow openings as close as 300 feet to arterial or collectors, if justified.

ii) Taper Length

A minimum deceleration taper of 100 feet shall be required on all median openings.

iii) Storage Length

A minimum storage length of 60 feet shall be required on all median openings on City streets, unless the Public Works Director or findings from a prepared Traffic Impact Analysis require additional storage length.

iv) Commercial Access Requirements

For median openings to be considered for commercial access, the median opening must generate traffic, as demonstrated by a projected trip generation, of not less than 25 left-turn ingress or 25 egress vehicles during the peak hour.

d) Median Opening Approval

i) New median openings and associated left-turn storage may be approved by the Public Works Director upon receipt of a traffic impact study justifying the need for the median opening.

ii) Widening, relocating, or other alterations proposed to change or modify an existing median opening, for any reason, must be approved by the Public Works Director, and must meet the requirements outlined in

this section. All future median installations shall conform to this policy and shall be approved by the Public Works Director.

e) Construction Costs for Median Openings

i) The cost of constructing any of the following, for any reason, shall be paid by the party requesting the opening.

a. Constructing a new median opening for private access.

b. Widening, relocating or otherwise changing or altering an existing opening.

c. Constructing a new median opening for access to dedicated public right-of-way.

d. Constructing a new median opening for access to a new subdivision.

ii) All design, demolition, and construction costs are the responsibility of the party requesting the median opening.

f) Landscaping Consideration for Medians

Medians shall be landscaped in accordance with in **Sec. 38-7.D.2. Median and Public Area Landscaping**.

g) Construction Specifications

All construction of driveways or median openings permitted under this article shall be done in a manner as defined herein, and as per the Standard Specifications for Road Construction in the Technical Manual, as amended. All construction of driveways shall be at the expense of the owner of the abutting property, unless such construction is a part of a major City-funded capital improvement project and/or ADA/sidewalk maintenance program.

h) Abandonment, Removal, or Restoration

For abandonment, removal, or restoration, see **Sec. 38-2.F.9.b)** above.

## G. Traffic Impact Analysis

1. Purpose

   The purpose of a Traffic Impact Analysis (TIA) is to assess the effects of specific development activity on the existing and planned thoroughfare system of the City. The following addresses the requirements of the TIA relative to the proposed site.

2. Responsibility of TIA Preparation

   When required, the applicant shall submit at the applicant's expense a traffic study that assesses the traffic impacts associated with a proposed development. The TIA must be prepared under the direction of a Professional Engineer (P.E.) licensed in the State of New Mexico with experience in traffic engineering sufficient to assess traffic impacts. The TIA report shall be signed and sealed by the Professional Engineer.

3. Applicability/Determination of Need

   A TIA (or a Specific Traffic Study) shall be required for any development that meets the specific thresholds/ triggers or special situations identified in the table below. The table also lists specific scope requirements such as the minimum study area, issue(s) to be addressed and analysis years based on the type of study/TIA. Generally, a traffic study shall be required for any development expected to generate traffic volumes that will significantly impact the capacity or safety of the street system.

**Figure 38-2-13. Required TIA Type**

| | | Specific Traffic Study | Tier I TIA | Tier II TIA |
|---|---|---|---|---|
| Thresholds/Triggers and Special Situations[1] | Peak hour trips[2] | N/A | 50 – 99 Trips | 100 or more Trips |
| | Daily trips[2] | N/A | 500 -749 Trips | 750 or more Trips |
| | Special Situations | Refer to **Sec. 38-2.G.3.d) Special Circumstances** | Refer to **Sec. 38-2.G.3.d) Special Circumstances** | Refer to **Sec. 38-2.G.3.d) Special Circumstances** |
| Minimum Study Area/Issue(s) | | Specific issue(s)/concern(s) Identified during a TIA scoping meeting or required by the Public Works Director | Site access driveways | Site access driveways |
| | | | All Major intersections and/or roadways within affected areas (signalized or unsignalized) | All Major intersections and/or roadways within affected areas (signalized or unsignalized) |
| | | | All driveways/intersections where traffic movements could be affected by new driveway traffic movements | All driveways/intersections where traffic movements could be affected by new driveway traffic movements |
| | | | All signalized intersections and major unsignalized intersections within 1/4 mile | All signalized intersections and major unsignalized intersections within 1/2 mile |
| Analysis Years | | As determined during a TIA scoping meeting or required by the Public Works Director | Existing Year | Existing Year |
| | | | Opening Year, +5 yrs, +20 yrs[3] | Opening Year, +10 yrs, +20 yrs[3,4] |
| | | | Intermediate Year (Multi-phased development) | Intermediate Year (Multi-phased development) |

[1.] TIA is required if a development/project meets any of the thresholds or triggers.

[2.] Unadjusted total trip generation anticipated by the development/project per the latest editions of the ITE Trip Generation Manual. Phased projects must be evaluated as a whole assuming full build-out conditions for the purpose of determining the need for a TIA.

[3.] In case of fair share needed

[4.] Regional development

The following provides specific situations where a TIA shall be required:

a) Platting

   A TIA shall be required prior to approval of a Final Plat for a platting proposal when the expected vehicle trip generation exceeds the trip thresholds.

b) Annexation

A TIA shall be required when an annexation is requested by a private entity, and the trip generation of the fully developed land use scenario of the annexed land exceeds the peak hour trip thresholds. This requirement will be waived if the Thoroughfare Development Plan has adequately considered this traffic generation or if the City has initiated the annexation.

c) Building Permit, Driveway Permit, or Development Plan

A TIA shall be required for any building permit, driveway permit, or development plan if the project meets the requirements of **Figure 38-2-13. Required TIA Type**. This requirement includes permits for sites with existing driveways.

d) Special Circumstances

A TIA may be required for a development if the Public Works Director determines that one or more of the following conditions exist:

i) Any project that is located in the vicinity (within a 1/2-mile radius from the project site/limit) of any intersections that operates at a level of service (LOS) D or worse OR located on the congested corridors (LOS D or worse) OR the next major intersection after the adjacent roads and intersections operates at a LOS D or worse.

ii) Traffic generated from a non-residential development has a clear and obvious ingress or egress path-through adjacent residential neighborhoods.

iii) Traffic operational impacts are anticipated by the Public Works Director with a clear connection to the proposed development and identified in writing, such as problems with driveways, left or right turns, signal timing, median openings, or sight distance.

iv) Development requires a new median opening (refer to **Sec. 38-2.F.10.b) Analysis of Median Opening**).

v) The traffic generated by a new development will impact existing traffic problems on adjacent streets that have been documented by the Public Works Director.

vi) The internal street or access system is not anticipated to accommodate the expected traffic generation. This also applies to inadequate internal circulation for developments that create queuing of vehicles such as drive thru or long vehicles such as semi-tractor trailers.

vii) The Public Works Director may require an applicant to conduct a TIA if there is a reasonable expectation that the project may adversely affect pedestrian and/or cyclist safety within the study area.

e) Waiver

A request for waiver of the traffic study may be submitted to the City. The waiver letter must include sufficient information documenting the justification for the waiver. The Public Works Director will review the request and decide whether a waiver can be granted. If a waiver is granted, the applicant may still be required to mitigate impacts as determined by the Public Works Director.

f) TIA Update

Any previous TIA relating to a development shall be updated if the TIA was approved more than three years ago, changes to the development proposal have been made that affect trip generation or traffic patterns, and/or changes in background traffic conditions as determined by the Public Works Director. If an updated TIA is necessary, additional information will be required to:

i) Update changes in the proposed development,

ii) Update or refine assumptions made in a prior submittal,

iii) Provide specific information not available at the time of the previous submittal, and

iv) Provide any new mitigation measures needed and any previously identified mitigation measures that will need to be changed.

If an updated TIA is requested, the applicant may demonstrate the currency of the existing TIA using these four criteria.

4. TIA Mandatory Scoping Requirements

   a) Prior to beginning any study, the applicant and/or their transportation consultant shall contact the Public Works Director and/or other appropriate representatives from the affected agencies when interjurisdictional impacts are anticipated. This meeting is a mandatory pre-scoping meeting. The purpose of the mandatory pre-scoping meeting is to establish assumptions and the process of preparing the study.

   b) The Pre-Scoping Meeting Information Sheet in the Technical Manual for TIA shall be prepared and submitted to the Public Works Director at least ten (10) business working days prior to the pre-scoping meeting.

   c) Based on the agreements reached at the pre-scoping meeting, a scope of work shall be prepared by the applicant's transportation consultant and approved by the Public Works Director prior to commencement of the study.

5. Coordination With Other Public Agencies

   In situations where several agencies must approve a development/project or are responsible for affected roadways, the applicant must contact all agencies to determine issues to be addressed, scope of the study, etc.

6. TIA Requirements

   All TIAs and related studies shall be prepared as per the technical criteria set forth in the Technical Manual. The guidelines in the Technical Manual may be modified by the Public Works Director when unusual conditions indicate that such modification will provide an adequate and safe street network.

## H. Clear Sight Triangle

1. Applicability

   Roadways, including intersections, site entrances, and driveways shall comply with the latest AASHTO and NACTO standards and have sufficient visibility to allow motorists to easily travel and enter or exit safely, as well as protect pedestrians and bicyclists.

2. Clear Sight Triangle Required

   At any intersection of two roadways, a Clear Sight Triangle shall be provided for an unobstructed path of sight.

3. Prohibited and Permitted Objects

   a) This area shall be kept clear of any development, landscaping, signage, storage, fencing, or any other object that could impair a driver's view based on the latest AASHTO standards. Certain objects low enough to avoid impairing a driver's view may be permitted if in accordance with the latest AASHTO standards.

   b) An intersecting street or driveway may not be appropriate along a vertical curve when required sight distance from a side street or driveway is not attainable. If the Public Works Director determines that it is essential that a side street or driveway intersect an Arterial or Collector along a vertical curve, then it may be necessary to reduce the vertical curve so that the necessary sight distance is available.

   c) Objects that may be located in the Clear Sight Triangle include, but are not limited to, hydrants, utility poles, utility junction boxes, and traffic control devices, provided that these objects are located to minimize visual obstruction. Objects not exceeding 12 inches wide may be permitted by the Public Works Director.

   d) Any existing trees located within the Clear Sight Triangle will be allowed to remain if all branches are trimmed to a height of ten feet above the point where the pavement meets the edge of the gutter pan on the street immediately adjacent to the tree(s) in question.

   e) No single post or column or combination of obstructions to view within the designated triangle shall exceed 12 inches in thickness at its greatest cross-section dimension.

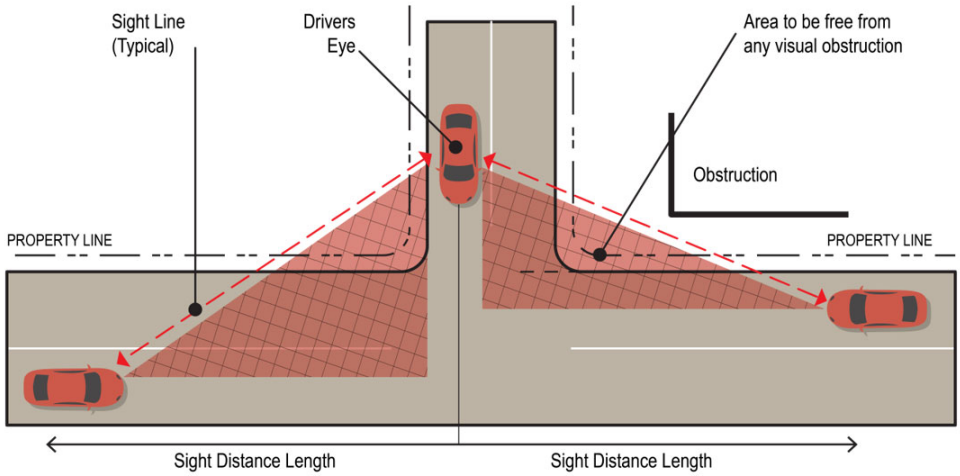
4. Required Dimensions

   a) The Clear Sight Triangle shall be in accordance with the most current AASHTO Green Book guidelines.

   b) The Public Works Director may require larger Clear Sight Triangles than those based on AASHTO Standards in certain cases (e.g., unique intersections, steep grades) by documenting in writing the specific problems being mitigated.

   c) The Development Review Committee may allow an alternative configuration that remains compliant with AASHTO Green Book requirements for Clear Sight Triangle or other safety concern.

~~**Figure 38-2-14. Example of Clear Sight Triangle Application**~~




5. Required Site Plan Note

   The following note is required on all site plans~~/plats~~: "Landscaping, signage, walls, fences, trees, and shrubbery between two feet and ten feet tall (as measured from the gutter pan) are not allowed within the clear sight triangle. Unique street and lot grades may require additional limitations within the clear sight triangle."

## I. Streetlighting

1. Applicability

   All subdivisions and developments that significantly alter the street cross-section shall comply with the streetlighting provisions of this section. Streetlighting is necessary to provide illumination and other safety benefits for roadway users during nighttime hours. The City shall designate priority corridors and infill development areas to install streetlights in conformance with this section.

2. Purpose

   The purpose of streetlights is to provide drivers with quick, accurate, and comfortable visibility at night. Residents should realize that the streetlights are provided for traffic safety, not property or personal security. It is true that streetlights do provide some amount of security. This, however, is not their primary intent and streetlights shall not be installed for security reason alone. The following standards apply to all streetlighting to provide adequate illumination for development, minimize light pollution, and promote energy conservation.

3. General

   a) The subdivider/developer shall install streetlighting on all public and private streets.

b) All new streetlighting or any modification to existing street lighting shall meet the most current version of IES RP-8 requirements, as amended, or other prior approved standard. The following statement shall be added to all street lighting plans "This is to certify that the proposed street lighting system for (enter Project Name) complies with the street lighting standards and requirements set forth in the most current version of the Roadway Lighting ANSI/IES RP-8 standards as recommended by the Illuminating Engineering Society (IES)."

c) Streetlighting shall be installed at the locations listed below. Meters shall also be installed to accommodate the streetlighting and to accommodate for any proposed future phases or development.

d) The City will not maintain streetlighting within a ~~for~~ private development(s).

e) All streetlighting fixtures, pole types, and hardware shall be selected from the City's Traffic Signal and Street Lightings Approved Product List.

f) All development should include an IES or other prior approved standard submittal to include digital submission of calculations including in the software format used.

4. Required Placement

a) Spacing for streetlights shall be determined by the requirements of IES. Mounting heights shall typically be 25 feet on residential streets and 35 feet arterials and nonresidential streets; however, additional lighting infrastructure may be required based on IES study.

b) The subdivider/developer shall install streetlights at all intersections, including three- and four-way intersections. The streetlight shall be as close to the corner as possible. The location of streetlights shall be based on the geometry of the roadways to include pedestrian crosswalks and sidewalk locations. For roundabouts, lighting is required and shall be approved by the Public Works Director.

c) A streetlight shall also be required at the beginning of turnarounds of cul-de-sacs based on IES RP-8 or other prior approved standard requirements.

d) The Public Works Director may waive or modify streetlight installation, placement, and spacing upon determination that an alternative configuration would be more desirable given the surrounding context (e.g., preservation areas, open spaces) or other site-specific features.

5. Installation and Maintenance Responsibility

a) The subdivider/developer shall install all service connections and streetlight poles for a subdivision/development. All wiring for streetlights shall be underground unless overhead wiring is approved by the City.

b) The subdivider/developer shall be responsible for the maintenance and cost of electricity to power the streetlights until such lights are accepted by the City.

c) Easements shall be shown on the subdivision plat for all electrical service.

d) Limited Access Facilities

i) The City shall be responsible for lighting major streets going over or under a freeway that has been approved by the City. The City shall pay the monthly power bill for these lights.

ii) The City is not responsible for the necessary lighting of structures or interchanges intersecting with local streets.

iii) The City may install streetlights at the intersection of local streets with frontage roads. The freeway frontage road is deemed to terminate at its approach to an off-ramp and begin at its connection to an on-ramp.

6. Streetlighting Requests

a) All streetlighting shall comply with IES RP-8 or other prior approved standard requirements.

b) Any request to relocate an existing City-owned streetlight must be pre-approved by the Public Works Director prior to construction and will be relocated at the requesters' expense. All electrical work shall be performed by an electrician licensed in the State of New Mexico working under a New Mexico licensed electrical contractor. All work shall comply with the City standards, NEC and MUTCD, and shall be coordinated with the City of Las Cruces Traffic Engineering section.

c) Subdivisions that were approved/planned to be exempted from lighting installation shall be reviewed at time of full street reconstruction only, or at the cost of the requestors/area being affected.

d) All lighting designs, pole designs, luminaire designs, and location of poles for all street lighting shall be approved by the Public Works Director.

e) When considering streetlighting requests, the Public Works Director will consider the following factors and thresholds:

i) Adjacent Land Uses

a. Proximity to schools, parks, large community centers, places of worship, and other civic facilities;

b. Upon petition of local residents and/or property owners; and

c. Other locations where a study demonstrates a need.

ii) Coordination of Activities

a. Coordination of street lighting installation with full reconstruction activities.

iii) Arterial Streets

a. Street lighting may be installed along arterial streets when traffic volumes, nighttime crashes, nighttime pedestrian use, and/or roadway hazards show a need for improved lighting.

b. Minimum warrant considerations for arterial streets would be an average daily traffic in excess of 10,000 vehicles, and an 85$^{th}$ percentile speed of 40 miles per hour, or greater based on an engineering study.

iv) Collector Streets

a. Street lighting may be installed along collector streets when traffic volumes, nighttime crashes, nighttime pedestrian use, and/or roadway hazards show a need for improved lighting.

b. Minimum warrant considerations for collector streets would be an average daily traffic in excess of 5,000 vehicles, and an 85$^{th}$ percentile speed of 35 miles per hour or greater, based on an engineering study.

v) Local Streets

a. Street lighting may be installed along local streets when traffic volumes, nighttime crashes, nighttime pedestrian use, and/or roadway hazards show a need for improved lighting.

7. Underground Light Circuits for Subdivisions and Other Developments

a) In existing subdivisions/developments where all utilities are presently placed underground and no streetlights exist, the City is responsible for the installation of underground streetlight circuits.

b) In new subdivisions/developments, all street lighting shall be installed by the subdivider concurrently with other associated infrastructure improvements.

c) In subdivisions/developments where utilities exist overhead and the property owners choose to place these overhead utilities underground, the property owners will be responsible for underground streetlight circuit installation.

d) In new subdivisions/developments, all streetlight circuits are to be placed underground.

e) All new streetlights and associated components shall meet City lighting specifications.

f) Any existing street lighting systems annexed into the City shall be subject to review for compliance with applicable electrical standards. Failure to meet the requirements of those standards could result in possible condemnation; and lighting that does not meet the standards may be scheduled to be replaced with City standard streetlights as funds become available.

8. Street Lighting Location

a) Improved Streets

i) Consideration must be given to the effect pole placements have on abutting properties. In view of this, the City will make a reasonable concession in a lighting pattern to avoid placing a pole at a point where it would have a detrimental effect on the abutting property. The City's intent is to focus such concessions primarily on residential properties. In most cases, the pole should be located within the right of way adjacent to the property line, but more importantly lateral placement should conform to the specifications of both streetlight pole and light head design without hindering the safety impacts of lighting based on IES requirements.

ii) Once the permit to use the right-of-way is issued, adherence to approved pole locations is expected.

iii) Street lighting shall be installed on a cul-de-sac street/local street intersection based on IES RP-8 requirements.

iv) Streetlight placement shall not obstruct the visibility of new or existing street signs and shall not interfere with pedestrian use of the ADA ramps, sidewalks, driveways, multi-use paths, or utility infrastructure. Sidewalks shall remain free of obstructions in compliance with the Americans with Disabilities Act.

b) New Street Construction

i) A set of drawings of proposed street construction shall be submitted to the Community Development Department for the purpose of locating streetlights. One set of drawings, showing streetlight locations and power sources, shall be submitted to El Paso Electric Company by subdivision developer, along with installation information and instructions, if the City is permitting a connection to an existing flat-rate circuit. All efforts will be made to avoid conflicts and duplications, and to coordinate construction efforts.

ii) Preliminary plans for local and collector streets will show an accurate survey tie to all poles (i.e., stationing and offsets) and plans for new construction should show utility easements.

iii) All plans will be reviewed by the City for proposed paving width and alignment, prior to submittal to the individual utility companies.

9. Streetlight Procedures for New Subdivisions

a) Preliminary Review

The developer, or a representative, shall submit to the Community Development ~~Public Works~~ Department section a master utility plan of a proposed subdivision, showing the electrical utility location runs and service points, either underground or above ground. The master utility plan shall contain location of all utility lines (gas, water, sewer, fire hydrants, street lighting, etc.), and location, botanical and common name, and mature size of trees and shrubs in the parkways and medians to be retained as part of the final parkway and median landscape plan. The Community Development ~~Public Works~~ Department shall review the plan for streetlight locations, and connecting conduit runs to electrical service points. The plan shall be returned to the developer with any comments, for review by the developer's registered New Mexico professional engineer. Upon satisfactory acceptance of the changes by City staff, said changes then shall be incorporated into the construction plans.

b) Developer Responsibility

The developer shall be required to construct the entire streetlight system within the Arterial, Collector, and Local street system at the time of roadway construction. This includes, but is not limited to, all underground

connecting conduits, wires, concrete foundations, poles, luminaries, fuses, fuse holders, ground rods, pull boxes, electrical service and controls, and lighting control systems. Costs associated with installing light standards/luminaires, wiring, and service meters associated with lighting on designated collectors or arterials as part of the new development will be shared equally between developer and the City of Las Cruces. All streetlights and associated components shall comply with the City traffic standards and applicable electrical codes. All electrical work shall be performed by a journeyman electrician licensed in the State of New Mexico working under a New Mexico licensed electrical contractor. All lighting shall be metered and planned to serve a large area of land to be developed to the extent possible.

c) City Responsibility

Upon request from the developer, the Public Works Director shall provide the bolt circle template for streetlight foundations, as shown on the approved construction drawings.

d) Contractor/Developer Information Contact

For information concerning the below items, the contractor is to contact the designated Public Works project manager, who will consult with Transportation Department/Streets/Traffic Operations personnel, as needed:

i) Information concerning design specifications.

ii) Any conflict of streetlight locations, requiring relocation as a solution.

iii) Any changes or rerouting of conduit runs.

iv) Request for additional streetlights, within the scope of **6. Streetlighting Requests** above.

v) Request to omit a streetlight, as shown on the plans.

vi) All other items concerning streetlights that are not shown above.

## J. Traffic Signals, Traffic Control Signs, Street Lights, and/or Roadways

1. All new or modified traffic control devices within City right-of-way or any off-street parking areas shall meet MUTCD requirements and receive approval by the Public Works Director.
2. Relocation of City Streetlight, Signal, or Sign

a) Any request to relocate an existing City-owned streetlight, traffic signal, or traffic control sign must be approved by the Public Works Director prior to construction, and will be relocated, upon receipt of permission, at the requesters' expense. At the City's option, the City may move the streetlight, traffic signal, or traffic control sign and be reimbursed by the requestor.

b) All sign work shall be performed by a qualified signs and markings technician holding an International Municipal Signal Association (IMSA) level one or better certification or a pre-approved certification equivalent to IMSA.

c) All signal work shall be performed by a qualified traffic signal technician holding an IMSA level two or better certification or a pre-approved certification equivalent to IMSA.

d) All electrical work shall be performed by a journeyman electrician, licensed in the State of New Mexico, working under a New Mexico licensed electrical contractor.

e) All work shall comply with the City standards and specifications, National Electrical Code and Manual on Uniform Traffic Control Devices and shall be coordinated with the Public Works Department.

3. When new development increases the traffic volumes on an existing signalized or non-signalized intersection, the following actions may be required:

a) A non-signalized intersection may have to be signalized.

b) An existing signalized intersection may have to be modified.

c) A signalized or non-signalized intersection's geometry may have to be modified.

d) The intersection may have to be reconstructed.

4. The signal maintenance shall be the responsibility of the City.
5. When new development or increased land use density increases the traffic volumes on an existing roadway, the following actions may be required:

   a) The roadway may need to be reconstructed.

   b) The roadway may need to be widened.

   c) Additional turn lanes may need to be constructed.

   d) Additional roadways for ingress/egress may need to be constructed.

6. If a modification to an intersection or roadway is required, the permittee will be required to provide all or a portion of the funding for the improvements. The funding requirements shall be determined by the Public Works Director and will generally be a pro-rata share based on additional traffic loading being proposed.
7. Acceptable construction of all roadway or intersection modifications must be constructed before the development's acceptance by the City.
8. A traffic signal warrant study per the Manual of Uniform on Traffic Control Devices (MUTCD) performed by a New Mexico registered professional engineer shall be required when the traffic impact analysis shows a drop in level of service below "B" on an intersection and/or intersections.
9. The City shall review the traffic impact analysis and the traffic signal warrant study to determine if a signal and/or modification to the roadway system is required.

### K. Audible Pedestrian Traffic Signals

Audible pedestrian signals shall be installed based on MUTCD requirements, ADAAG, and FHWA as part of the traffic signal equipment.

### L. Placement of Traffic Control Devices

1. The most current edition of the MUTCD shall govern the use and placement of traffic control devices, whether temporary or permanent, within the right-of-way.
2. All traffic control devices shall be installed complete and in place before any street or road is opened to public access. All traffic control devices shall be installed by a qualified signs and markings technician holding an IMSA Sign Level I or better certification (or a pre-approved certification equivalent to IMSA).
3. An approved traffic control plan for establishing temporary traffic control is required for any agency or qualified persons working within or next to any driving lane, sidewalk, multi-use path or at any other place that would impede the movement of other pedestrians or vehicles within the right-of-way. This includes but not limited to, any work that requires the use of any kind of traffic control devices such as cones, barrels, channeling devices, barricades, etc., being placed within the right-of-way.
4. All temporary traffic control devices shall be furnished, erected, and maintained by the contractor or qualified responsible party. All traffic control devices shall only be erected and maintained by a qualified person certified in work zone safety (or a pre-approved certification equivalent to IMSA).
5. A traffic control plan shall be submitted to the Public Works Department through the formal plan review process prior to placement on any street under City jurisdiction. All plans shall comply with the most current edition of the MUTCD indicating dates, times and duration of work, traffic devices to be used, placement of devices, and the order that devices are to be placed and removed. Traffic control devices shall maintain ADA accessibility and ensure that pedestrian and bicycle safety and access is maintained per MUTCD and federal guidelines. An approved traffic control plan is required before any part of the public right-of-way is blocked or any traffic control

device is placed within the right-of-way (this includes all traffic, vehicular, pedestrian, bikes, etc.) The approved traffic control plan must remain on-site or be immediately available and presented to Public Works staff for review to ensure the work zone is set up per plan. An emergency contact number for the contractor must also be provided. Failure to comply with this requirement may result in work stoppage, removal of traffic devices at the violators' expense, and citations per **Sec. 34-1.H. Violations and Enforcement** and applicable Las Cruces Municipal Code.

6. Any request to install or relocate an existing City traffic control device must be pre-approved by the Public Works Director prior to construction and will be at the requesters' expense. All sign work shall be performed by a qualified signs and markings technician holding an IMSA Level I certification or better (or a pre-approved certification equivalent to IMSA).

   a) Temporary Traffic Control Devices: All traffic control plans for placement of temporary traffic control devices within City right-of-way are required to be submitted to the Public Works Department for approval. Traffic control plans shall include, but not be limited to, the following information:

      i) Spacing of appropriate signage shown in feet.

      ii) Calculation of taper lengths per the MUTCD.

      iii) Sign code references per the MUTCD.

      iv) Phasing of traffic control placement, as necessary.

      v) Dates and times of day for short-duration lane closures of ten working days or less.

      Contractors are required to adhere to the approved traffic control plan regarding setup and duration of lane closure(s).

   b) Permanent Traffic Control Devices: In private developments, placement of all new signage and/or markings shall be the responsibility of the developer or owner. Placement shall be in accordance with the submitted sign plan as approved by the Public Works Director. Maintenance of signage in private developments open to the public shall be maintained by the property owner. Property owners are responsible for ensuring ongoing maintenance of private streets, including streetlighting, traffic controls, and other related features.

## M. Sidewalks and Multi-Use Paths

1. Applicability

   Sidewalks or multi-use paths shall be installed on all designated access easements, public and private streets for new development and shall include curb and gutter infrastructure. Sidewalks or multi-use paths shall also be installed on property on which a Building Permit is being issued that requires a Certificate of Occupancy.

2. Purpose

   The purpose of this section is to improve the safety of residents by providing a separation between vehicles and sidewalk users, such as pedestrians or people with disabilities. In addition, sidewalks and multi-use paths promote physical activity for residents, especially when constructed with a parkway that includes street trees. Sidewalks and multi-use paths are an important mode of transportation for commuting and for recreational use.

3. General

   The following standards and requirements shall apply to sidewalks and multi-use paths in the City.

   a) Sidewalks or multi-use paths shall be provided along all new roadways in accordance with **Figure 38-2-1. Roadway Cross-Sections** and shall comply with the Construction Standards within the Technical Manual and the latest ~~ADAAG~~ addition of the United States Access Board's Public Right-of-Way Accessibility Guidelines (PROWAG) standards.

   b) Site development shall provide for multimodal access between the right-of-way and the development.

   c) All sidewalks and multi-use paths shall provide a minimum clear path width in accordance with the following:

i) ~~Sidewalks shall have a minimum clear path width of a minimum of~~The minimum width of all sidewalks shall be 5 feet. ~~on all streets~~.

ii) For multi-use paths, there shall be a minimum clear path of 8 feet for all streets. For any transit or bus stops, there shall be a minimum clear path of 8 feet that is perpendicular to the curb to allow for ADA accessibility.

iii) If a bus shelter is located at a stop, there should be a minimum of 20 feet along the length of the sidewalk that is a minimum of 8 feet wide.

d) Multi-use paths shall be concrete for the portion where any driveways are located.

e) Curb ramps shall be provided within a street right-of-way wherever an accessible route for pedestrians (sidewalk or pedestrian way) is required. The design and construction of curb ramps shall be in accordance with federal and state accessibility standards.

4. The Development Review Committee may require sidewalks or multi-use paths to be wider than required by **Figure 38-2-1. Roadway Cross-Sections** for developments with higher densities, pedestrian-oriented developments, or other areas with high pedestrian traffic.

5. The Development Review Committee may modify the requirements for sidewalks on individual streets or within subdivisions based on the following criteria.

a) Limited, confined infill in existing, developed single-family residential neighborhoods where sidewalks or multi-use paths are not present and have not historically been provided.

b) On local streets within an approved subdivision where all the lots provide a minimum one-half acre lot area, and the adjoining properties have no sidewalks.

c) On local streets where pedestrian access is provided within the approved subdivision through an alternative sidewalk design not installed within the street right-of-way; provided, however, that an easement may be required to provide for the installation of traffic signage and signalization, utility services, or other similar facilities.

6. Timing for Sidewalk and Multi-Use Path Construction

The timing of sidewalk and multi-use path construction shall be as required by this section unless a development agreement between the property owner and the City provides for alternative timing for construction and security has been provided in accordance with this section and **Sec. 37-4.C.1.a)**.

a) New Subdivisions

i) For new arterials or collectors, sidewalks, multi-use paths, hike and bike trails, and curb ramps shall be installed by the subdivider at the time of road construction.

a. In no case will a Building Permit be issued until sidewalks and multi-use paths are completed along arterial and collector streets, in accordance with **Sec. 37-4.D. Substantial Completion**.

ii) For new Local streets, sidewalks, multi-use paths, hike and bike trails, and curb ramps must be installed by the builder at the time of Building Permit construction. Sidewalks must be installed prior to issuance of a Certificate of Occupancy. If the lot is not developed within three years, then the current property owner is required to install the sidewalk on the property to eliminate sidewalk gaps. Sidewalk behind rollover curb to be installed by developer at the time of subdivision.

b) Existing Developments

i) For existing developments, sidewalks or multi-use paths must be installed prior to issuance of a Certificate of Occupancy.

a. Existing sidewalks may be utilized if they are at least four feet in width, ADA-compliant, in good condition, and connect to other existing sidewalks of the same width.

b. New sidewalks must be installed if existing sidewalks are in disrepair and no longer safe for usage by pedestrians or people with disabilities.

ii) When a new sidewalk is installed crossing a driveway that is no longer in use, the unused driveway shall also be removed. See **Sec. 38-2.F.9.b) Abandonment, Removal, and Restoration Requirements**.

## N. Off-Street Parking

1. Applicability

a) New Development

All new development shall provide off-street vehicular parking, bicycle parking, and loading areas in accordance with the standards of this section unless exempted by **N.4.a)i)** below.

b) Addition or Expansion

i) If an existing structure or use is expanded or enlarged (in terms of the number of dwelling units, floor area, number of employees, or seating capacity), any additional off-street vehicular parking and loading spaces that may be required for the expanded or enlarged part of the structure or use shall be provided in accordance with the requirements of this section.

ii) If an existing structure or use is expanded or enlarged (in terms of the number of dwelling units, floor area, number of employees, or seating capacity), any required bicycle parking for the entire structure or use shall be provided in accordance with the requirements of this section.

c) Change in Use

Any change in use of an existing structure or land shall be accompanied by the provision of any additional off-street vehicular parking, bicycle parking, and loading spaces required for the new use unless accommodated by **4.c) Off-Street Parking Alternatives and Reductions** below or another mechanism within this Development Code.

2. Purpose

The purpose of this section is to:

a) Ensure that off-street vehicle parking, bicycle parking, loading, and access demands associated with new development are met within the context of surrounding land uses and neighborhoods;

b) Allow flexibility in addressing vehicle parking, loading, and access issues by presenting a menu of strategies to address parking issues rather than only parking space requirements;

c) Ensure that off-street parking, loading, and access demands associated with new development are met without adversely impacting surrounding land uses and neighborhoods;

d) Accommodate safe and convenient movement of vehicles, bicycles, pedestrians, and transit.

3. Parking Plan Required

a) Applications for development shall include a parking plan, which shall accurately designate the number and location of required parking spaces, access aisles, and driveways, and the relation of the vehicular off-street parking facilities and bicycle parking facilities (if applicable) to the development they are designed to serve, including how the parking facilities coordinate with the vehicular, pedestrian, and bicycle circulation systems for the development.

i) The Community Development Director may waive this submittal requirement if the Director determines that a parking plan is not necessary to demonstrate the proposed development's compliance with the standards in this section based on the size and configuration of existing parking and loading areas on the site. Multimodal circulation and impacts and infrastructure improvements will need to be addressed via a TIA at the discretion of the Public Works Director.

b) Site plans shall specify the proposed land uses before a building permit will be issued. A revised site plan will be required if revised land uses require additional parking that cannot be accommodated through **4.c) Off-Street Parking Alternatives and Reductions** below.

4. Minimum Off-Street Vehicular Parking Requirements

a) Required Off-Street Parking Spaces

Development shall provide at least the number of off-street vehicular parking spaces required by **Figure 36-3-2. Permitted Use Chart**, based on the proposed use(s), subject to **c) Off-Street Parking Alternatives and Reductions**.

i) Exception: No off-street vehicle parking is required in the following areas due to the reduced automobile use associated with pedestrian-oriented, mixed-use developments:

a. DDC, Downtown Development Code

b. MXCO, Mixed Use Corridor Overlay District

c. TCO, Town Center Overlay District

d. NCO, Neighborhood Center Overlay District

e. Urban Character Area

b) Calculation of Requirements

i) Fractions

When calculation of the number of required spaces results in a fractional number, any fraction of 0.5 or greater shall be rounded up to the next higher whole number and any fraction of less than 0.5 shall be rounded down to the lower whole number.

ii) Area Measurements

All square-footage-based parking and loading requirements shall be computed on the basis of gross floor area of the subject use. For the purposes of parking calculations, the gross area of any parking garage within a building shall not be included within the gross floor area of the building.

iii) Parking and Loading for Multiple Uses

Lots containing more than one use shall provide parking and loading in an amount equal to the total of the requirements for all uses unless reduced through a shared parking agreement or other provision within this Code.

a. Note that some combined uses (e.g., Shopping Center or Mixed-Use) are defined uses in **Figure 36-3-2. Permitted Use Chart** and include established parking ratios or other methods of calculation.

iv) Parking and Loading for Unlisted Uses

For uses not expressly listed in **Figure 36-3-2. Permitted Use Chart**, the Community Development Director is authorized to:

a. Apply the off-street parking space requirement specified for the listed use that is deemed most similar to the proposed use (based on operating characteristics, the most similar related occupancy classification, or other factors determined by the Director);

b. Establish the off-street parking space requirement by reference to parking resources published by the Institute of Traffic Engineers (ITE) or another acceptable source of parking demand data; or

c. Establish the off-street parking space and loading requirements based on a parking and loading demand study prepared by the applicant according to **v)** below.

v) Discretionary Requirement Based on Demand Study

Uses that reference this subsection in **Figure 36-3-2. Permitted Use Chart** have widely varying parking and loading demand characteristics, making it difficult to specify a single off-street parking or loading standard. Upon receiving an application for a use subject to this subsection, the Community Development Director shall apply the off-street parking and loading standards on the basis of a parking and loading demand study prepared by the applicant. Such a study shall estimate parking demand for the proposed use based on the recommendations of the Institute of Traffic Engineers (ITE), Urban Land Institute, the International Council of Shopping Centers, the American Planning Association, or other acceptable source of parking demand data for uses and/or combinations of uses of comparable activities, scale, bulk, area, and location.

c) Off-Street Parking Alternatives and Reductions

i) Approval of Parking Alternatives

The following provisions are methods to reduce the number, size, and/or square footage of area required for on-site vehicle parking. Bicycle parking must be provided as required by **Figure 36-3-2. Permitted Use Chart**. These methods cannot be applied to any provision regarding parking for persons with disabilities, unless no off-street parking is provided.

The Community Development Director may approve parking alternatives to the off-street parking spaces required by **Figure 36-3-2. Permitted Use Chart** in accordance with one or more of the standards in this section.

ii) Shared and Joint Use of Parking Areas

When a mix of uses are located on one site or adjacent properties, applicants shall seek shared parking agreements to reduce the amount of required parking.

a. These agreements shall be approved as to form and content by the City Attorney and Community Development Director and must be referenced on the Final Plat, Site Plan, and/or Certificate of Occupancy.

b. Agreements may be made with adjoining property owners regardless of the hours of operation of the adjoining uses.

c. In combining parking requirements, a minimum of 75 percent of the required off-street parking for all uses shall be met.

d. Adequate and safe pedestrian access by a walkway protected by a landscape buffer or a curb separation and elevation from the street grade shall be provided between the shared parking areas and the primary pedestrian entrances to the uses served by the shared parking.

e. Signage shall be provided to direct the public to the shared parking spaces.

f. An agreement for shared and joint use of parking areas shall become null and void if there is a change in the land uses that are covered by the agreement, platting, or re-platting of the land. In these instances, a new agreement shall be required.

iii) Off-Site Parking

a. Up to 40 percent of the required parking spaces may be provided on property separate from the property served, provided all of the separate parking is within 500 feet from the property served, as measured along the pedestrian path.

i. Required accessible spaces must be provided off-street and on-site.

b. Adequate, safe, and well-lit pedestrian access shall be provided between the off-site vehicular parking area and the primary pedestrian entrances to the use served by the off-site parking.

c. A parking agreement ensuring that the allowed off-street parking is required for the life of the land use shall be properly executed by all the separate property owners, approved as to content and form by the

City Attorney and the Community Development Director, referenced on the Final Plat, Site Plan, and/or Certificate of Occupancy, and submitted to the Community Development Director.

iv) On-Street Parking

In areas where on-street parking is permissible and verified by the Public Works Director, this parking can be used for up to 25 percent of the required parking of a use provided that the on-street parking is within the area of the property on which the use is located. Required accessible spaces must be provided off-street and on-site.

v) Parking Structure

A 20 percent reduction in the total number of required parking spaces will be granted if the required parking is provided in a parking structure that is two stories or more.

vi) Bicycle Parking Spaces

a. Bicycle parking facilities shall meet the design standards found in the Technical Manual and **Sec. 38-2.N.5** below.

b. Bicycle Racks: One motor vehicle parking space can be replaced with four bicycle rack spaces or other approved bicycle parking facilities. This option can be used for not more than 50 percent of the vehicular parking spaces.

c. Bicycle Lockers: One motor vehicle parking space can be replaced with two bicycle locker spaces. This option can be used for up to seven vehicle spaces or not more than 15 percent of the vehicular parking spaces, whichever is less.

5. Bicycle Parking Standards

a) Minimum Required Bicycle Parking

i) Bicycle parking spaces are required in all zoning and overlay districts for the following:

a. New development; and

b. Any individual expansion or alteration of a building existing prior to the effective date of this ordinance if the expansion increases the building's gross floor area by 50 percent or more, or the alteration involves 50 percent or more of the building's gross floor area (including interior alterations).

ii) The amount of parking shall be provided in accordance with **Figure 36-3-2. Permitted Use Chart**, based on the development's principal use(s).

b) General Bicycle Parking Standards

Required off-street bicycle parking spaces shall be provided with bike racks, bike lockers, or similar parking facilities that comply with the following standards:

i) Located on the property in a way that provides the optimum security for the bicycles;

ii) Located on a paved or similar hard, all-weather surface, having a slope not greater than three percent;

iii) Well-lit and accessible to the public or bicyclists after dark;

iv) Does not interfere with pedestrian or bicycle traffic;

v) Identified with adequate signs and striping;

vi) Protected from conflicts with vehicular traffic;

vii) Located as near as practicable to the main entrance of the building they are intended to serve; however, directional signage shall be provided where a bicycle parking space is not visible from a main entrance to the building for which the bicycle parking space is required; and

viii) Designed in accordance with the Technical Manual.

6. General Standards for Off-Street Vehicular Parking and Loading Areas

a) Size of Parking Spaces and Driving Aisles

The minimum dimensional requirements for parking stalls and driving aisles are shown in **Figure 38-2-15. Minimum Dimensional Requirements for Parking Stalls and Driving Aisles**. Twenty-seven feet is the minimum two-way driving aisle width, including non-dedicated streets or private drives, when there is no parking on both sides of the driving aisle. Twelve feet is the minimum width for a one-way driving aisle. The City Fire Department may require wider driving aisles whenever necessary to address fire and safety concerns as addressed in the International Fire Code, as amended.

**Figure 38-2-14. Minimum Dimensional Requirements for Parking Stalls and Driving Aisles**

| Parking Angle | Stall Width | Stall Length | Stall Base | Stall Depth | Width of One-Way Aisle | Width of Two-Way Aisle |
|---|---|---|---|---|---|---|
| 30 degrees | 9′ | 19′ | 18′ | 17.3′ | 12′ | 27′ |
| 45 degrees | 9′ | 19′ | 12.7′ | 19.8′ | 13′ | 27′ |
| 60 degrees | 9′ | 19′ | 10.4′ | 21′ | 18′ | 27′ |
| 90 degrees | 9′ | 19′ | 9′ | 19′ | 27′ | 27′ |
| 0 degrees (parallel) | 9′ | 22′ | 22′ | 9′ | 12′ | 27′ |

NOTES:

Driving/back-up aisles are not required for one single-family dwelling per lot or one duplex per lot. All other land uses shall provide driving aisles when parking stalls are required.

All angle parking, except 90 degree and parallel parking shall have aisles designed for one-way traffic flow only, except that two-way traffic is permitted in designs approved by the Community Development Director.

All parking lot designs shall have primary ingress and egress to a public street or access easement. Secondary access only may be to an alley. However, access to or from an alley and parking lot is permitted if 1 to 4 dwelling units are located on property that abuts the alley. Primary ingress/egress to an alley is permitted for properties with 1 to 4 dwelling units.

Except for single-family or two-family dwelling units, parking and loading areas shall be arranged so that vehicles will not be required to back out of parking or loading spaces directly into a public way. Circulation within a parking lot shall be designed to minimize aisles with one inlet/outlet. Aisles with only one inlet/outlet shall provide “back outs” for end spaces.

Land uses that involve the servicing of motor vehicles shall not service vehicles in the required parking stalls.

i) Compact Vehicle Parking

a. Up to 10 percent of the total number of required parking spaces may be used for compact vehicle parking; provided, that the total number of required off-street parking spaces is provided on site.

b. Compact parking spaces shall be 8 feet wide by 18 feet long for 90-degree parking or the equivalent dimensions required for an angle space to maintain the 8-foot by 18-foot rectangle.

c. Compact spaces shall be clearly signed and marked “Compact Only.”

ii) Gas Pump Islands

a. Gas pump islands designed to accommodate two or more vehicles on each side: A minimum of 24 feet (perpendicular) shall be provided between gas pump islands, islands and buildings, curbs, other types of driving aisle obstructions, and between the back of parking spaces and the end of the gas pump vehicle space. (Distance may be reduced to 18 feet between parking spaces and pump vehicle spaces if one-way and angle parking.)

b. Gas pump islands designed for one vehicle on each side: A minimum of 18 feet (perpendicular) shall be provided. (24 feet required between parking spaces and pump vehicle spaces unless one-way and angle parking.)

c. Diesel pump islands for tractor-trailer trucks only; no automobiles or recreational vehicles will use these pumps. A site plan shall show diesel pumps spaced at least 17 feet, center-to-center distance, with a minimum of 14 feet of one-way driving clearance between pump islands.

iii) Electric Vehicle Charging Stations

Electric Vehicle (EV) charging stations may be located beyond the wheelstop, in landscape areas, or in another location that does not block a pedestrian, bicycle, or vehicular accessway.

b) Parking Spaces for Persons with Disabilities

Parking spaces for persons with physical disabilities shall comply with federal and state requirements, and the Technical Manual. Such a place shall be designated by a conspicuously posted sign bearing the international sign of accessibility.

c) Landscaping

For parking lot landscaping requirements, see **Sec. 38-7.D.5. Parking Lot Landscaping**.

d) Construction and Maintenance of Parking Areas

i) Single-Family Homes, Townhouses, and Duplex, Triplex, or Quadplex Developments

Crushed stone or crusher fines is the minimum surface that may be used for driveways or parking areas for single-structure Single-Family Homes, Townhouses, and Duplex, Triplex, or Quadplex developments on one lot.

ii) All Other Developments

a. Surfacing Requirements

All vehicular use areas must be surfaced with one of the following materials:

i. Pervious and impervious asphaltic concrete;

ii. Pervious and impervious cement concrete;

iii. A penetration treatment of bituminous material and seal coat of bituminous binder and mineral aggregate; or,

iv. Alternative surfacing as determined appropriate by the Fire Marshal and Public Works Director.

The surface must be maintained in a smooth, durable, and well-drained condition and be kept clear of debris or other accumulated refuse.

b. Striping

Parking spaces, back-up aisle, loading areas, entrances, exits, and clear sight triangles shall be appropriately marked to indicate their location.

c. Landscaping and Irrigation

Landscaping and an irrigation system in compliance with **Sec. 38-7. Landscaping** will be required with the installation of a parking area.

d. Drainage

Drainage shall comply with **Sec. 38-3. Drainage and Flood Control** and all other City regulations. Excess flow and volume shall be detained or retained on site. The installation of a parking area may require a drainage facility.

e) Requirements for Lots with More than 50 Parking Spaces

i) Parking Location

No more than 50 percent of off-street parking may be located between the front facade and a public street unless outlots are present.

ii) Sub-Lots and Pedestrianways

a. Large surface parking lots shall be visually and functionally segmented into several smaller sub-lots by landscaped areas. Each sub-lot shall contain a maximum of 50 parking spaces. An additional 50 parking spaces are allowed per sub-lot if the landscaped area and associated plantings exceeds the minimum established in **Sec. 38-7.D.5. Parking Lot Landscaping** by at least 20 percent.

b. For every parking sub-lot, a landscaped median/divider at least 15 feet wide shall be installed to break up the sub-lots. These medians shall contain pedestrian accessways to offer safe, marked routes between parking spaces and building entries.

iii) Pedestrian Circulation

An internal pedestrian accessway, at least six feet in width and ADA accessible, must be provided from the perimeter sidewalk to the primary public entrance. Internal pedestrian walkways must be distinguished from driving surfaces by textured, painted, and/or raised surface.

iv) Additional Landscaping

Up to a 10 percent reduction in the required number of parking spaces will be allowed if additional shade trees are provided beyond the requirements of **Sec. 38-7.D.5. Parking Lot Landscaping**. Each parking space eliminated through this option shall be replaced with a minimum of two trees.

f) Tandem Parking Spaces

Tandem parking provides for two or more parking spaces, one behind the other, where access to one parked vehicle can only be gained through the abutting space. Tandem parking can be utilized for no more than 50 percent of all required parking spaces. Tandem parking shall only be utilized for specific, property owner-/manager-controlled cases such as:

i) Residential parking, when both spaces are designated for a single dwelling unit;

ii) Employee parking;

iii) Company-owned vehicles; or

iv) Controlled parking situations (funeral homes, sporting events, car rental or truck agencies).

g) Parking and Storage of Large Motor Vehicles

Subsections **g)i)** through **g)vi)** below apply to all areas other than the Rural Character Area.

i) Parking and storage areas for any motor vehicle or its appurtenances, including the necessary driveways to get to and from the parking and storage areas, shall not cover more than one-half of any open area between the front, including the secondary front, of the main dwelling and the front property line in a single-family or duplex property,

a. Exception: In the case of a lot on a cul-de-sac, up to two-thirds of any open area between the front of the main dwelling and the front property line may be used.

ii) Townhouse lots may use up to three-fourths of any open area between the front, including the secondary front, of a building or structure and the front property line.

iii) No motor vehicle or its appurtenances shall be parked or stored on any sidewalk within any public right-of-way or protrude onto any public right-of-way.

iv) Recreational vehicles and motor vehicle appurtenances (e.g., RVs, camper shells, boats, trailers, boat on trailer, camper shell on truck) shall be limited to a maximum of one per main dwelling unit within any open area between the front and side of the main dwelling and the front and side property lines with no limit in the rear open areas.

v) The land area in front of or to the side of the main dwelling on which the recreational vehicle or motor vehicle appurtenance is parked or stored shall be graveled or paved. No parking or storage of recreational vehicles and motor vehicle appurtenances shall be permitted on graveled areas considered to be part of the property's landscaping.

vi) No parking or storage of recreational vehicles and motor vehicle appurtenances shall be located within the clear sight triangle (**H. Clear Sight Triangle**) on corner lots.

h) Wheelstop Provisions

i) Wheelstops are required for all parking spaces except those serving residential developments of four or fewer units.

ii) Size Requirements: Six feet in length, six inches in height.

iii) Horizontal in Placement: Two feet from the base of the parking space, securely anchored to the parking surface.

iv) Materials: Wheel stop material shall be compatible and appropriate to the site. Materials such as concrete, railroad ties, landscape timbers, or molded steel may be used.

v) Alternative Wheelstop Methods:

a. Adjacent to sidewalk: When the parking space base is adjacent to a six-foot required sidewalk, the sidewalk may be widened to eight feet, essentially making two feet of the sidewalk the wheelstop.

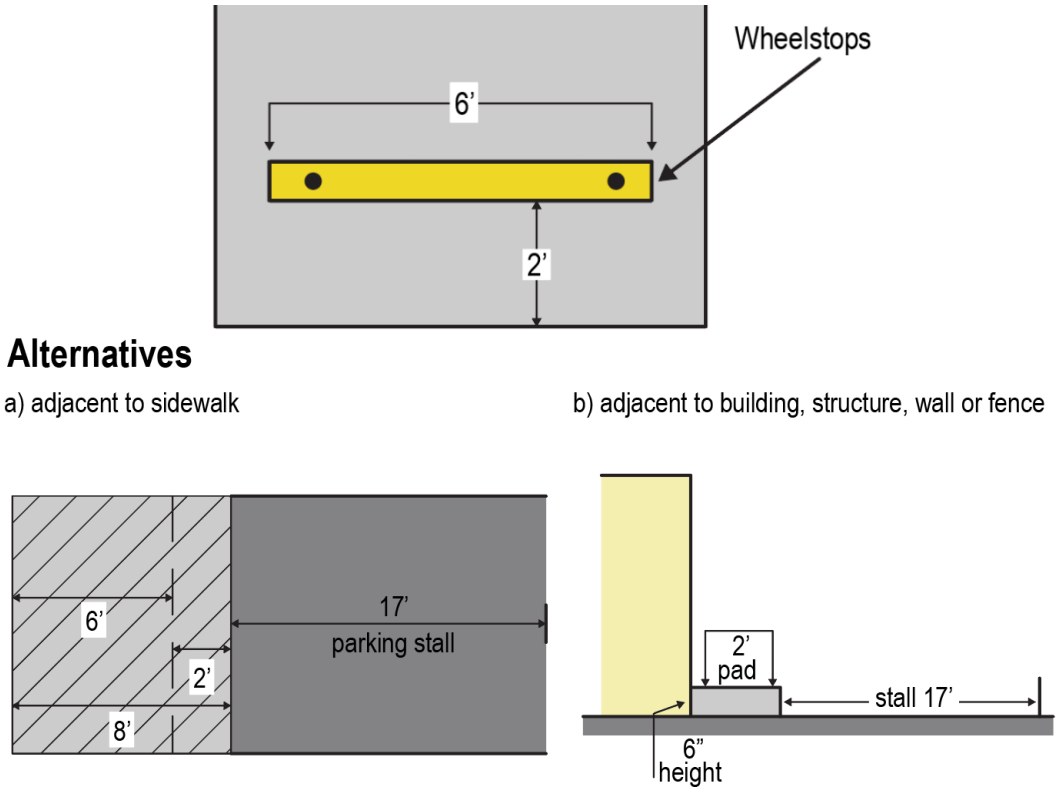
b. Adjacent to building, structure, wall or fence: When a parking space base is adjacent to a building structure or wall, a two-foot pad or landing may be constructed adjacent to the structure or wall. The pad or landing's construction must be of a minimum asphalt standard. The pad or landing cannot take the place of a required sidewalk.

c. Adjacent to landscaping/aggregate: Low lying (no taller than three inches and below the top of the curbing) landscape may be placed within the two-foot area where the pad or landing would be present. The landscaping shall be enclosed by a six-inch curb and be properly irrigated.

vi) Parking Space Measurement: When utilizing one of the alternative wheelstop methods, the parking space length will be measured two feet less or 17 feet.

vii) Exceptions: One and two-family dwellings are not required to provide wheel stops.

**Figure 38-2-15. Wheelstop Placement and Design**




7. Loading and Stacking

   a) New development involving routine vehicular delivery or shipping of goods, supplies, or equipment to or from the development shall provide a sufficient number of off-street loading berths to accommodate the delivery and shipping operations of the development’s uses in a safe and convenient manner.

   b) Loading and stacking areas must not conflict with emergency, vehicular, bicycle, or pedestrian access. All loading and stacking areas shall be shown on a site plan.

   c) Number and Size of Loading Berths Required

      i) Each loading berth shall be of sufficient size to accommodate the types of vehicles likely to use the loading area, at the discretion of the Community Development Director.

ii) A minimum stacking distance of 40 feet shall be provided at all ingress/egress access drives intersecting with a street. Other distances may be approved by the Director if warranted by lot size and configuration.

iii) **Figure 38-2-17** sets forth the minimum number of loading berths.

a. The Public Works Director may reduce the required loading space by up to 100 percent if warranted by the building's use.

**Figure 38-2-16. Required Off-Street Loading Berths**

| Gross Floor Area (sqft) | Number of Loading Berths | Size of Each Loading Berth |
|---|---|---|
| Less than 10,000 | None | N/A |
| 10,000 to 29,999 | 1 | 10 feet x 25 feet |
| 30,000 to 100,000 | 2 | 12 feet x 50 feet |
| More than 100,000 | 2, plus 1 additional loading berth for every 100,000 square feet beyond the first 100,000 square feet | 14 feet wide x 50 feet long x 14 feet high |

d) Location, Screening, and Arrangement of Loading Areas

i) Off-street loading berths shall be located and arranged so that vehicles can maneuver for loading and unloading entirely within the property lines of the site and are not required to back onto or from a public street.

ii) Required off-street loading spaces shall not be permitted in any front setback area or in any required street side setback area.

iii) Off-street loading spaces may occupy all or any part of a required rear setback area where visibility from public streets and windows of neighboring buildings will be minimized.

iv) Loading areas shall not interfere with parking lot maneuvering areas.

v) State and City streets or rights-of-way shall not be used for loading and unloading purposes.

vi) Off-street loading berths shall be located and/or screened so they are not visible from any thoroughfare or collector street right-of-way or from adjacent lands that are classified in a residential zoning district or developed with a residential use.

e) Vehicle Stacking Areas

The minimum stacking lane requirements are as follows:

i) Length required: The minimum length for a drive-thru is 85-100~~60~~ feet ~~for non-drive-thru situations. The minimum length for drive-thru shall be determined by a Traffic Impact Analysis or other type of analysis approved by the Public Works Director.~~

ii) Width required: Ten feet, except nine feet of drivable area at the point of service.

iii) The measurement of the length of the stacking lane begins at the middle of the last point of service and ends at the point of entry of the lane.

iv) A stacking lane shall be designed in a manner that permits appropriate traffic circulation and avoids congestion in the parking area.

v) The minimum radius of a stacking lane shall be 25 feet.

vi) Vehicles shall not overflow into the access easements or driving aisles.

f) Where traffic flow is controlled by an entry gate, guard house, or drive-through service facility, an adequate stacking lane, approved by the Public Works Director, shall be provided in a manner that does not interfere with maneuvering into parking spaces or traffic flow of aisles, streets, bike paths, or sidewalks.

## Sec. 38-3. Drainage and Flood Control

### A. Purpose

1. This section contains guidelines for drainage system design and establishes a standard practice for recognized and established engineering design of storm drain facilities to protect the health, safety, welfare, and property of the general public. This section also includes requirements for the submittal of drainage plans and associated documents related to development. Specific design criteria for drainage systems are included in the City of Las Cruces Drainage Technical Manual.
2. Methods and processes included in this section are the minimum standards. Recognized and established engineering practices and principles shall be followed in all engineering projects within the City limits. The Public Works Director shall determine the required parameters of any particular project or technical analysis and may require additional criteria should such be deemed to be in the best interest of the general public. If any of these requirements conflict with existing standards or guidelines, the more stringent shall apply.
3. Authority to Issue Administrative Warnings

   The Public Works Director, Community Development Director, and personnel under their supervision, as well as the City building and project inspectors shall be authorized to issue verbal or written administrative warnings to any person, operator or owner who allegedly violates any provision of this Section.

### B. Applicability

This Section applies to all new development, expansions that increase impervious surface, and or development that otherwise changes pervious surfaces (e.g., adds vegetation, changes slopes, etc.) as determined by the Public Works Director.

### C. Drainage Reports and Construction Plans for Drainage Facilities

1. Requirements for Drainage Reports and Construction Plans

   All drainage reports and construction plans shall be prepared by a professional engineer registered in the State of New Mexico and shall comply with the minimum requirements and specifications set forth in this section.

   Review schedules will be as outlined in the subdivision and building codes. However, reports involving large developments and complex structures will require more review time. If the development is phased, the final drainage report must also address how the intermediate runoff of each phase will be mitigated.

   The engineer should be aware that whenever unusual or serious drainage problems are anticipated in conjunction with a proposed development, additional analysis and information beyond the minimum requirements outlined in this section may be required by the Public Works Director.

   The following specifications and criteria shall be used for Drainage Reports:

   a) Master Drainage Study

      i) A master drainage study shall be required prior to approval for any annexation, Planned Unit Development, or Preliminary Plat. The purpose of the master drainage study is to identify major drainage facilities, ponding areas, locations of culverts, bridges, open channels, and drainage basins that are contributory to the proposed study area. In addition, the ability of downstream drainage facilities to pass the developed runoff from the proposed development must be analyzed in the master drainage study. The master drainage study shall contain a general outline of the proposed drainage routing plans for the development. The report shall include but not be limited to the following information and calculations:

         a. Calculations for peak flow for the 1-percent probability storm event from all upstream off-site tributary drainage areas.

b. Calculations for peak flow for the 1-percent probability storm event within the proposed development for all drainage basins larger than 20 acres.

c. Preliminary analysis of the floodplain and major drainage ways for the 1-percent and 10-percent probability storm event.

d. Closed subbasin analysis including identification of water into or out of subbasin.

e. Discussion and analysis of adverse impact anticipated to downstream drainage facilities.

f. Discussion of drainage problems and solutions that are anticipated within the proposed development.

g. The report shall be submitted electronically and formatted to an 8½-inch by 11-inch paper.

h. All drainage studies/reports must include a table of pertinent values in the body of the report. The values shall include, at a minimum, flow depth for all flow paths, peak velocity, Tc, freeboard for channels (not including streets), flow (Q), CN numbers, and volumes of runoff for basins. Drainage studies shall include maps showing both flow and volume into and out of basin(s) and proposed development.

i. Flows may need to be routed to a historic point of convergence for both the pre- and post-development/construction condition.

j. If a hydrologic model is required, the model should be included as an Appendix or Exhibit to the Drainage Report.

ii) Drawings for the master drainage study shall include but not be limited to the following:

a. Any and all floodplains and floodways must be identified. A copy of the applicable FEMA floodplain map is required indicating limits of current study.

b. Existing topography, one- or two-foot contour intervals.

c. Location and size of existing and proposed open channels, storm drains, and all other drainage structures.

d. NRCS soils map with area of interest indicated.

e. Identification of all contributing existing and affected drainage basins upstream and within the development.

f. Location of all streets larger than local classification.

g. Basin maps may be scaled as small as 1" = 600' (1:7200). Orthophoto maps at a scale of 1" = 200' are preferred. Basin maps shall have each basin name, area (acres), 10-percent and 1-percent peak flows (CFS) into and out of the basin (shown at the location of concentration) and, clearly indicated flow paths. Maps of a scale 1" = 2,000' may be used for undeveloped, offsite basins greater than one square mile.

h. All drainage maps shall be formatted to a minimum of 24" × 36" and shall be included in the electronic submittal. Pre-printed maps, such as USGS maps, are acceptable. Maps of a smaller size may be accepted at the reviewer's discretion.

iii) Inlet and storm drain size calculations are not required with the master drainage study; therefore, the number of subbasins analyzed in the report shall be held to the smallest practical number.

iv) Required Outline

The following is a sample outline for a typical master drainage report. Each of these headings should be addressed in the report body with supporting information and calculations in the appendices. Information provided at this stage of the review process is reviewed for only the phase submitted for and only for the requirements above. Post-development items are considered conceptual during this review phase.

a. Introduction and purpose
b. Methodology
c. Scope of investigation
d. Meteorological and geological
    i. Climate
    ii. Rainfall
    iii. Soil investigation
        (a) Hydrologic soil classification
        (b) Runoff curve number
        (c) Soil description
e. Basins
    i. Basin parameters – Existing and Proposed
        (a) Offsite
        (b) Onsite
f. Hydrology
    i. Pre-development
        (a) Direct runoff
        (b) Runoff volume computation
        (c) Peak flow computations
    ii. Post-development
        (a) Direct runoff
        (b) Runoff volume computation
        (c) Peak flow computations
    iii. Comparison of ponding volumes pre- and post-development
g. Hydraulics
    i. Natural and constructed channels
    ii. Streets
h. Conclusion section
    i. Discussion of final drainage management strategy, including upstream and downstream impact
    ii. Detailed description of hydraulic and hydrologic interaction
    iii. Formal statement by the developer certifying that the development will not have an adverse impact on properties and structures adjacent to or downstream of the new development. The statement must identify how standards are satisfied.
i. Appendices
    i. All required maps and drawings in electronic format
    ii. All calculations in electronic format

iii. Input and output from any modeling and routing software in electronic format

b) Final Drainage Study and Construction Plans for Drainage Facilities and Structures:

The final drainage study shall be a detailed study and analysis of the drainage in the proposed development for both predevelopment and post-development conditions. Developments include but are not limited to subdivisions, commercial developments, or planned unit developments. It shall include detailed calculations for all runoff within the proposed development, and detailed calculations for all runoff exterior to the site, with detailed calculations supporting the design of all drainage structures within the development. Final drainage studies shall use the approved methods as outlined in the Runoff Analysis Methods and shall incorporate green infrastructure as per the City of Las Cruces Standards. Construction plans for all drainage structures, grading plans, and street grades, where applicable, shall also be considered part of the final drainage study. Drawings and calculations comprising the final drainage study shall include but not be limited to the following information:

i) Clearly labeled existing and proposed contours for proposed development. (Contour interval based on USGS datum, one-foot contour interval minimum.)

ii) Location and elevations of City or USGS benchmarks. All elevations shall be based on USGS datum.

iii) Property lines.

iv) Streets, right-of-way limits, names and grades.

v) Existing drainage facilities and structures, including existing irrigation ditches, roadside ditches, drainage ways, gutter flow directions, and culverts. All pertinent information such as size, slope, and location of existing drainage ways shall be included to facilitate review and approval of drainage plans.

vi) Overall drainage area boundaries and drainage sub area boundaries.

vii) Proposed type of curb and gutter (vertical, combination, rollover, or flat) and gutter flow directions including cross-spans (intersections).

viii) Proposed storm drains, open drainage ways, and right-of-way requirements, including proposed inlets, manholes, culverts, erosion control and energy dissipation devices, and any other required appurtenances necessary for drainage control.

ix) Proposed inflow and outfall points for runoff from the study area.

x) Routing and combining all flows at various critical points for the initial 10-percent probability (10-year) and major (1-percent probability, 100-year) storm runoff.

xi) Minimum finished floor elevation and ground site elevations at all critical building locations for protection from major storm runoff.

xii) Predevelopment and post-development basin maps, with a scale of 1” = 100’ (1:100) of the proposed development, which shall show the following information:

a. Location and size of all drainage structures.

b. General flow patterns and flow paths within the development also to include offsite basins affecting the development.

c. Finished floor and ground site elevations of all buildings and adjacent sites and structures.

d. The 1-percent probability storm event flood level in all streets in which the curb is overtopped.

e. All drainage basins within, and affecting, the development shown in a table listing basin names, basin area (acre), 10-percent and 1-percent flood event peak flows into and out of each basin shown at the flow path location. The number of basins should be limited to the smallest practical number.

xiii) All floodplains and floodways within the proposed development. A copy of the current FEMA floodplain map is required, showing project limits.

xiv) All electronic or printed drawings shall be on 24” by 36” sheets. Maps of a smaller size may be accepted at the reviewer’s discretion.

xv) NRCS soils map showing project location.

xvi) Final drainage study shall incorporate master drainage study.

xvii) Recommended outline. The following is a sample outline for a typical final drainage report. Each of these headings should be addressed in the report body with supporting information and calculations in the appendices. Information provided at this stage of the review process is reviewed for only the phase submitted for and only for the requirements above.

a. Introduction and purpose

b. Methodology

c. Scope of investigation

d. Meteorological and geological

   i. Climate

   ii. Rainfall

   iii. Investigation

      (a) Hydrologic soil classification

      (b) Runoff curve number

      (c) Soil description

e. Basins

   i. Basin parameters

f. Hydrology

   i. Pre-development

      (a) Direct runoff

      (b) Runoff volume computation

      (c) Peak flow computations

   ii. Post-development

      (a) Direct runoff

      (b) Runoff volume computation

      (c) Peak flow computations

   iii. Comparison and ponding of pre- and post-development

g. Hydraulics

   i. Natural and constructed channels

   ii. Streets

   iii. Culverts and storm drains

h. Conclusion section

   i. Discussion of the final drainage approach

   ii. Detailed description of hydraulic and hydrologic interaction.

i. Appendices

i. All required maps and drawings

ii. All calculations

iii. Input and output from any modeling and routing software

c) Plan Details

The following details shall be indicated on the drainage plans:

i) Title block (lower right-hand corner preferred)

ii) Scale

iii) Date and revisions

iv) Name of professional engineer and firm

v) Professional engineer's seal

vi) Drawing number (sheet n/n)

vii) Legend

viii) Approval blocks for various City departments

d) Construction Plans

Construction plans shall show the following information:

i) Plan

a. North arrow

b. Property lines, adjacent properties, ownership thereof, and subdivision information

c. Street names and easements with width dimensions and location

d. Existing utility lines, location and depth, or height, as follows:

i. Water

ii. Gas

iii. Telephone

iv. Storm drains

v. Irrigation canals

vi. Sanitary sewers

vii. Other utilities

ii) Profile

a. Vertical and horizontal grids with scales

b. Ground surface grade (dashed) and proposed grade (solid)

c. Existing utility lines where crossed

d. Benchmarks (USGS datum)

iii) Proposed construction

a. Pipes and culverts

i. Plan showing stationing

ii. Profile

iii. Size, length between manholes, and pipe composition

iv. Grades of pipe

v. Inlet and outlet details of all manholes and inlets and connections to existing drainage systems

vi. Manhole details, including station numbers and invert and top elevations

vii. Typical bedding details for pipe for all bedding situations encountered on the project

b. Open channels

i. Plan showing stationing

ii. Profile indicating the grade of invert of channel, top of lining if any, and adjacent ground grade

iii. Typical cross-sections

iv. Construction notes

v. Lining details

vi. Riprap and bedding details and gradation requirements for same

vii. Structure details of all inflow, outflow, and drop structures. Including sub grade and foundation design details

2. Construction Approval

Record drawings of improvements shall be provided for all subdivision or public right-of-way construction projects. The design engineer and the City must review and approve any changes to the original design of a project. Record drawings will be made by the design engineer from information provided by job-site contractors or field surveys. Upon obtaining the record drawings, final inspection, Letter of Map Revision (when applicable), and approval by the Public Works Director, the project can be issued a letter of acceptance, or the improvement can be accepted by the City in the case of a subdivision or planned development.

## D. Flood Hazard Prevention and Flood Control

1. In General

a) Statutory Authorization

The Legislature of the State of New Mexico has in New Mexico Statutes Annotated 1978, § 3-18-7 delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses, and it is determined to be in the public interest for the City to establish the flood control damage prevention regulations in this section.

b) Findings of Fact

i) The flood hazard areas of the City are subject to periodic inundation, which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety, and general welfare.

ii) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed, or otherwise protected from flood damage.

c) Statement of Purpose

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

i) Protect human life and health;

ii) Minimize expenditure of public money for costly flood control projects;

iii) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

iv) Minimize prolonged business interruptions associated with flooding;

v) Minimize damage to public facilities and utilities such as water, sewer, and gas mains; electric, telephone, and communication lines; and streets and bridges located in flood-prone areas;

vi) Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize future flood blight areas; and

vii) Ensure that potential buyers are notified that the property is in a flood zone or a flood-prone area.

d) Methods of Reducing Flood Losses

In order to accomplish its purposes, this section is intended to introduce methods designed to reduce flood losses, including the following:

i) Restrict or prohibit uses that are dangerous to health, safety, or property in times of flood, or that cause excessive increases in flood heights or velocities.

ii) Require that land and buildings vulnerable to floods, including facilities which serve such development, be protected against flood damage at the time of initial construction. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters.

iii) Control filling, grading, dredging and other development which may increase flood damage.

iv) Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters, or which may increase flood hazards to other lands.

e) Applicability of Section

This section shall apply to all areas of special flood hazard within the jurisdiction of the City.

f) Basis for Establishing the Areas of Special Flood Hazard

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, “The Flood Insurance Study (FIS) for the City of Las Cruces, Doña Ana County, NM, dated July 6, 2016, with accompanying Flood Insurance Rate Maps (FIRM) dated July 6, 2016, and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

g) Establishment of Development Permit

A development permit shall be required to ensure conformance with the provisions of this Code prior to the commencement of any development activities.

h) Compliance

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

i) Abrogation and Greater Restrictions

This section is not intended to repeal, abrogate, or impair any existing regulations, ordinances, easements, covenants, or deed restrictions. However, where this Code and the provisions of other regulations or ordinances conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

j) Interpretation

In the interpretation and application of this ordinance, all provisions shall be:

i) Considered as minimum requirements;

ii) Liberally construed in favor of the City of Las Cruces; and

iii) Deemed neither to limit nor repeal any other powers granted under State Statutes.

k) Warning and Disclaimer of Liability

The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations applicable at the time of authorship. On rare occasions, greater floods can and will occur, and flood levels may be increased by manmade or natural causes. This section does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This section shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this section, or any administrative decision lawfully made thereunder.

l) Lands to which this Section Applies

The section shall apply to all areas of special flood hazard within the jurisdiction of the City of Las Cruces, New Mexico.

m) Determination of Substantially Improved or Substantially Damaged Existing Buildings and Structures in Flood Hazard Areas

For applications for reconstruction, rehabilitation, repair, alteration, addition, or other improvement of existing buildings or structures located in flood hazard areas, the Floodplain Administrator shall determine if the proposed work constitutes substantial improvement or repair of substantial damage. Where the Floodplain Administrator determines that the proposed work constitutes substantial improvement or repair of substantial damage, and where required by this Code, the Building Official shall require the building to meet the requirements. The cost used in the substantial improvement determination shall be the cumulative costs of all previous improvements for a specific building or structure occurring during the immediate past five-year period.

2. Administration

a) Designation of the Floodplain Administrator

The Community Development Director hereby appoints a Floodplain Administrator who is certified to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Regulations) pertaining to floodplain management.

b) Duties and Responsibilities of the Certified Floodplain Administrator

Duties and responsibilities of the certified Floodplain Administrator under this section shall include but not be limited to:

i) Maintaining and holding open for public inspection all records pertaining to this section;

ii) Reviewing permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding;

iii) Reviewing and then approving or denying all applications for development permits required under the Code;

iv) Reviewing permits for proposed development to ensure that all necessary permits have been obtained from those Federal, State or Local governmental agencies, (including section 404 of the Federal Water Pollution Control Act Amendments of 1972 (33 USC 1334) from which prior approval is required);;

v) Making the necessary interpretation where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions);

vi) In riverine conditions, notifying adjacent communities and the New Mexico Department of Homeland Security and Emergency Management (NMDHSEM), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency;

vii) Assuring that the stormwater capacity within the altered or relocated portion of any watercourse is maintained;

viii) Obtaining, reviewing, and reasonably utilizing any base flood elevation data and floodways data available from a federal, state, local, or other source in order to administer the provisions of **Sec. 38-3.D.3.a)** through **Sec. 38-3.D.3.e)** below When base flood elevation data has not been provided, in accordance with **Sec. 38-3.D.1.f) Basis for Establishing the Areas of Special Flood Hazard**;

ix) Requiring that, when a regulatory floodway has not been designated, that no new construction, substantial improvements or other development, including fill, shall be permitted within zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community;

~~ix)~~x) When a hydraulic or hydrologic study terminates near or within a development area, the limits of study shall be extended as necessary by the community and/or Floodplain Administrator to ensure hydraulic continuity and stable boundary conditions. The study shall extend upstream and downstream until computed water-surface elevations and flow characteristics are fully representative of existing conditions and no longer influenced by project effects. Extensions shall conform to FEMA MT-2 technical guidance and 44 CFR § 65.6(a)(8) to maintain proper tie-ins to effective data; and

~~x)~~xi) Assuring that, under the provisions of 44 CFR Chapter 1, Section 65-12, of the National Flood Insurance Program regulations, the City of Las Cruces may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevations of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).

c) Permit Procedures

i) Application for a development permit required under this Code shall be presented to the floodplain administrator on forms furnished by the property owner or the property owner's representative and may include, but is not limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the development in relation to areas of special flood hazard. Additionally, the following information is required:

a. Where base flood elevations have not been provided by the Federal Emergency Management Agency, a drainage study prepared and certified by a professional engineer registered in the state. The drainage study shall include:

i. An aerial photo of the area to be developed and contributing watershed;

ii. An up-to-date contour map of the site to be developed at a scale of 1" = 100' and contour lines at intervals of no more than one foot and spot elevations at all breaks in grade along all drainage channels or swales and at selected points not more than 100 feet apart in all directions;

iii. A contour map identifying the site to be developed and the entire watershed that contributes storm runoff to the development site;

iv. Calculations showing the peak discharge and volume of runoff that will pond or pass through the development site from a 1-percent probability storm; and

v. Calculations showing the 1-percent probability storm base flood elevation in relation to mean sea level on the site to be developed.

b. Elevation in relation to mean sea level of the lowest floor, including any basement, of all new and substantially improved structures;

c. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;

d. A certificate from a professional engineer or architect registered in the state of New Mexico that the nonresidential floodproofed structure shall meet the floodproofing criteria of **Sec. 38-3.D.3.b)ii)** below;

e. A description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and

f. Maintenance of a record of all such information in accordance with **Sec. 38-3.D.2.b)i)** above.

ii) Approval or denial of a development permit by the Floodplain Administrator shall be based on all of the sections of this ordinance and the following relevant factors:

a. The danger to life and property due to flooding or erosion damage;

b. The susceptibility of the proposed structure and its contents to flood damage and the effect of such damage on the individual owner;

c. The danger that materials may be swept onto other lands to the injury of others;

d. The compatibility of the proposed use with existing and anticipated development;

e. The safety of access to the property in times of flood for ordinary and emergency vehicles;

f. The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical, and water systems;

g. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

h. The necessity to the facility of a waterfront location, where applicable; and

i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

d) Variance Procedures

i) The City Council shall hear and render judgment on request for variances from the requirements of this ordinance.

ii) The City Council shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this article.

iii) Any person aggrieved by the decision of the City Council may appeal such decision to the District Court within 30 days of the rendering of the decision.

iv) Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

v) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic places without regard to the procedures set forth in the remainder of this ordinance.

vi) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below, the base flood level, providing the relevant factors in **Sec. 38-3.D.2.c)ii)** have been fully considered.

As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

vii) Upon consideration of the factors noted in this ordinance and the intent of this ordinance, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article stated in **Sec. 38-3.D.1.c)** and **Sec. 38-3.D.1.d)**.

viii) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

ix) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the repair or rehabilitation will not preclude the structures continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

x) Prerequisites for granting variances shall be as follows:

a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

b. Variances shall only be issued upon:

i. Showing a good and sufficient cause;

ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, and extraordinary public expense, and create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

c. Any applicant, to whom a variance is granted, shall be given written notice of the permitted elevation of the lowest floor of the structure to be built, which shall not be more than two feet below the base flood elevation. The cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

xi) Variances may be issued by the City of Las Cruces for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:

a. The criteria outlined in i) through x) are met; and

b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

e) Substantial Improvement and Substantial Damage Determinations

For applications for building permits to improve buildings and structures, including alterations, movement, repair, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

i) Estimate the market value, or require the applicant to obtain a professional appraisal prepared by a qualified independent appraiser, of the market value of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made.

ii) Compare the cost to perform the improvement, the cost to repair the damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, where applicable, to the market value of the building or structure.

iii) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage.

iv) Notify the applicant when it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood-resistant construction requirements of the building code is required and notify the applicant when it is determined that work does not constitute substantial improvement or repair of substantial damage.

3. Flood Hazard Reduction

a) General Standards

In all areas of special flood hazards, the following are required for all new construction and substantial improvements:

i) All new construction or substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

ii) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

iii) All new construction or substantial improvements shall be constructed with materials resistant to flood damage.

iv) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

v) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

vi) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters.

vii) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

viii) Floodplain development shall follow the Federal Emergency Management Agency's Letter of Map Change (LOMC) process (e.g., LOMA, LOMR, LOMR-F, CLOMR, CLOMR-F) as specified in 44 CFR. Upon the submittal of any preliminary and final drainage drawings for review, floodplain information shall be required along with a Conditional Letter of Map Revision (CLOMR and CLOMR-F) and a Letter of Map Revision (LOMR and LOMR-F) for 1-percent probability storm event for storm flows of greater than 250 cubic feet per second, developments of five acres and larger, developments with 50 or more lots, and/or developments with any changes to the existing flow path in flood hazard zones AE, A, AH, AO, and D. Information shall include peak discharges for the 10-percent, 2-percent, 1-percent, and 0.2-percent probability storms for the floodplain inundation area and anticipated depth of floodwaters one foot and deeper. Standard step backwater models shall be used for flood depth determination. The Hydrologic Engineering Centers HEC-2 analysis method may be required. Improvements and subdivisions will not be accepted by the City until the flood study has been approved by the Federal Emergency Management Agency.

a. A CLOMR will be submitted for review by the City and submitted to the Federal Emergency Management Agency prior to plan and/or Final Plat approval.

b. A LOMR will be submitted for review by the City and submitted to the Federal Emergency Management Agency before acceptance by the City and before the issuance of any Certificate of Occupancy. Costs incurred for the preparation of materials and fees paid to the Federal Emergency Management Agency will be borne by the developer.

b) Specific Standards

In all areas of special flood hazards where base flood elevation data has been provided as set forth in **Sec. 38-3.D.1.f) Basis for Establishing the Areas of Special Flood Hazard**, **Sec. 38-3.D.2.b)viii)**, or **Sec. 38-3.D.3.c)iii)** below), the following are required:

i) Residential Construction

New construction and substantial improvement of any residential structure shall have the lowest floor, including any basement, elevated to at least one foot above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in **Sec. 38-3.D.2.c)i)a** above is satisfied. When Base Flood elevation data has not been established, the City shall obtain, review, and reasonably utilize any Base Flood elevation data and regulatory data available from federal, state, or other source, in order to administer the provisions of this Section.

ii) Nonresidential Construction

New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to at least one foot above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level plus one foot of freeboard, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification, which includes the specific elevation in relation to mean sea level to which such structures are floodproofed, shall be issued by the certifying professional to the Floodplain Administrator and be maintained by the Floodplain Administrator.

iii) Enclosures

New construction and substantial improvements, with fully enclosed areas below the lowest floor that are useable solely for the parking of vehicles, building access, or storage in an area other than a basement and that are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:

a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

b. The bottom of all openings shall be no higher than one foot above grade; and

c. Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

iv) Manufactured Homes

Manufactured homes are subject to the following regulations.

a. All manufactured homes to be placed within Zone A on a community's FIRM shall be installed using methods and practices that minimize flood damage. For the purpose of this subsection, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

b. Manufactured homes in the following categories that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM must be elevated on a permanent foundation such that the lowest floor of the manufactured home is at least one foot above the base flood elevation and shall be

securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movements in accordance with paragraph **d** below:

i. Outside of a manufactured home park or subdivision,

ii. In a new manufactured home park or subdivision,

iii. In an expansion to an existing manufactured home park or subdivision, or

iv. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood.

c. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zone A1-30, AH, and AE on the community's FIRM that are not subject to the provision of paragraph **b** above must be elevated so that it meets the greater of either:

i. The lowest floor of the manufactured home is elevated at least one foot above the base flood elevation, or

ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, whichever is higher.

d. Ground anchoring systems shall meet the requirements outlined in the City manufactured housing installation code. Anchors and anchoring systems that do not meet these requirements shall be designed by a professional engineer registered in the state of New Mexico and approved by the Floodplain Administrator.

v) Recreational Vehicles

Recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

a. Be on the site for fewer than 180 consecutive days,

b. Be fully licensed and ready for highway use, or

c. Meet the permit requirements of **Sec. 38-3.D.2.c)i)b** above, and the elevation and anchoring requirements for "manufactured homes" in **Sec. 38-3.D.3.b)iv)** above. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

c) Standards for Subdivision Proposals

i) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall be consistent with **Sec. 38-3.D.1.b). Findings of Fact** through **Sec. 38-3.D.1.d). Methods of Reducing Flood Losses**.

ii) All proposals for the development of subdivisions, including the placement of manufactured home parks and subdivisions, shall meet the development permit requirements of **Sec. 38-3.D.1.g). Establishment of Development Permit** and **Sec. 38-3.D.2.b)ix)**.

iii) Base flood elevation data shall be generated for subdivision proposals and other proposed development, including the placement of manufactured home parks and subdivisions, which is greater than 50 lots or five acres, whichever is less, if not otherwise provided pursuant to **Sec. 38-3.D.1.f). Basis for Establishing the Areas of Special Flood Hazard** or **Sec. 38-3.D.2.b)viii)** above.

iv) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.

v) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to

minimize or eliminate flood damage. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. New and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during a flood event.

vi) All proposals for the development of subdivisions shall meet development permit requirements of **Sec. 38-3.D.1.g) Establishment of Development Permit** and **Sec. 38-3.D.2.b)ix)**, this section, as well as the requirements of **Chapter 37. Subdivision Regulations**.

vii) All preliminary and final plats submitted for approval must have any floodplain clearly graphically delineated and noted.

~~viii) \When developing property that extends into the City's regulatory floodplain, the floodplain shall be dedicated to the City in fee, as a flood water conservation easement, or as open space, as appropriate under the circumstances as determined by the Community Development Director. This area shall be shown on the subdivision map.~~

d) Standards for Areas of Shallow Flooding (AO/AH Zones)

Areas designated as shallow flooding are located within the area of special flood hazard as established in **Sec. 38-3.D.1.f) Basis for Establishing the Areas of Special Flood Hazard**. These areas have flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where higher velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following apply to AO and AH zones:

i) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM plus one foot of freeboard (at least three feet if no depth number is specified).

ii) All new construction and substantial improvements of nonresidential structures shall:

a. Have the lowest floor, including any basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM plus one foot of freeboard (at least three feet if no depth number is specified); or

b. Together with attendant utility and sanitary facilities, be designed so that below the base flood level plus one foot of freeboard, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

iii) A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this section, as proposed in **Sec. 38-3.D.2.c)i)a** above, are satisfied.

iv) Adequate drainage paths around structures on slopes shall be required to guide floodwaters around and away from proposed structures.

e) Floodways

Floodways located within areas of special flood hazard established in **Sec. 38-3.D.1.f) Basis for Establishing the Areas of Special Flood Hazard** are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply to the floodway:

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

ii) If subsection **i)** above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of **Sec. 38-3.D.3.a) General Standards** through **Sec. 38-3.D.3.d) Standards for Areas of Shallow Flooding (AO/AH Zones)**.

iii) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, the City of Las Cruces may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision through the Federal Emergency Management Agency.

f) Severability

If any section, clause, sentence, or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

g) Penalties for Non-Compliance

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $10,000.00 for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Las Cruces City Council from taking such other lawful action as is necessary to prevent or remedy any violation.

## E. Development In or Adjacent to Areas Prone to Erosion

1. Scope of Division

Construction of slope protection within the City shall require an approved building permit and shall conform to the minimum design standards as specified within this Code and in accordance with the latest City-adopted edition of the International Building Code (IBC), City construction specifications, and design standards for all drainage facilities that will be dedicated to the City. All development in the special flood hazard area (SFHA) – also known as the flood zone – must comply with the Code of Federal Regulations (44 CFR 60.3).

2. Slope Protection for Drainage Ponds and Embankments

The following shall be applied to slope protection design and construction of slopes greater than 3:1:

a) Construction permit applications, if applicable, shall include all structural calculations, investigative reports, and design documentation.

b) All slope protection within the City shall be designed and constructed per City Design Standards and in accordance with the latest City-adopted edition of the International Building Code for both private and public construction, as applicable.

c) For any facilities dedicated to the City, a site-specific geotechnical investigation will be required.

d) City of Las Cruces Pond requirements, revised June 20, 2023, or latest version are included in the Drainage Technical Manual.

3. Erosion Control and Mitigation

The following shall apply to development:

a) A draft Stormwater Pollution Prevention Plan (SWPPP) and a Notice of Intent (NOI) must be included as part of the initial project design plan submissions for a construction permit.

b) All Best Management Practices (BMPs) shall be listed in the SWPPP.

c) All grading shall limit and control surface soil disturbance and removal of vegetation. All grading shall have controls in place to prevent surface runoff and sediment transport off-site.

d) A draft wind erosion plan (WECP) shall also be submitted, per WECP standards and requirements.

e) Storm runoff discharging to floodways adjacent to residential properties must be designed to prevent erosion of adjacent private property.

f) Requirements for erosion and wind control are located within the Technical Manual.

4. Geotechnical Soils Investigation

a) A geotechnical soils report is required for any facilities that will be dedicated to the City. A geotechnical soils investigation may be required if the soil conditions are unknown or otherwise unusual as determined by the Public Works Department. This requirement must also be met for soils that are classified as expansive, very fine, loose structure, have a history of instability, have a potential for future instability, or will have a designed or natural slope steeper than 3:1. Any soils report, or addendum, for a project/development shall be part of the building permit application and shall be presented as part of the construction permit drawing submittal.

b) Geotechnical investigations shall meet the requirements of ASTM D-420 “Investigation and Sampling Soils and Rocks for Engineering Purposes”.

c) Each boring log shall note the ground surface elevation at the location of each boring.

d) Ponds: Subsurface exploration depth below the designed bottom-of-pond (BOP) elevation to define the infiltration zone shall be:

i) Private ponds. Exploration of ten feet (minimum) below the designed bottom-of-pond (BOP) elevation for at least 20 percent of ponds in a development. Exploration points shall be equally spaced across proposed pond locations.

ii) City drainage ponds, ponds dedicated to the City, and dual-use facilities. One exploratory hole of 20 feet below BOP (minimum) for each pond.

5. General Slope Protection

The following applies to all slope protection related to drainage structures, including pond embankments and slope stabilization to prevent erosion and sediment transport due to storm events:

a) All slope protection designs 3:1 or steeper shall be designed by a Professional Engineer licensed in the State of New Mexico and reviewed by the City prior to issuance of a construction permit.

b) All slopes that do not have natural vegetation or ground cover shall be stabilized.

c) Slope stabilization methods shall follow guidelines and standards included in the Technical Design Manual and the latest edition of the New Mexico Department of Transportation (NMDOT) Standard Specifications for Highway and Bridge Construction.

d) Slope protection using planted vegetation is required for slopes 4:1 or less. Design shall be in accordance with **Sec. 38-7. Landscaping** and the following specifications:

i) Planted slope protection shall not be used for slopes steeper than 4:1.

ii) United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) practice standards shall be met for slope protection planting.

## F. Stormwater Quality/Pollution Reduction Development

1. Purpose

In order to meet the requirements included in federal and state regulations, including the Municipal Separate Storm System (MS4) permit and National Pollution Discharge System (NPDES), this section outlines the City

guidelines for improving the quality of stormwater runoff by controlling pollutants and sediment, and improving the air quality by controlling dust from unstable soil.

Industrial, commercial, and residential construction shall conform to the latest applicable permit requirements and will submit a Stormwater Pollution Prevention Plan (SWPPP) and Wind Erosion Control Plan (WECP) for any site that may release dust, sediment, or contaminated runoff to natural waters, including floodways and the Rio Grande.

National Pollutant Discharge Elimination System (NPDES) applies to persons obtaining construction permits clearing one (1) acre or more ~~than one acre of more~~ under the federal Environmental Protection Agency (EPA) Construction General Permit. This section shall apply to any stormwater discharge associated with commercial, industrial, residential, roadway, and other activities, including construction, in strict accordance with the current MS4 permit for the City of Las Cruces.

It shall also be the purpose of this section to:

a) Maintain and improve the quality of surface water and groundwater within the City limits;

b) Promote public awareness of the hazards involved in the improper discharge of hazardous substances, petroleum products, household hazardous waste, industrial waste, sediment from construction sites, pesticides, herbicides, fertilizers, pet waste, and other contaminants into the City's storm drains, natural waters, and water courses;

c) Encourage recycling of used motor oil and safe disposal of other hazardous consumer products;

d) Respect, protect, maintain, and restore arroyos, wetlands, bosques, floodplains, steep slopes, riparian vegetation, and wildlife habitat areas that are within the City's jurisdiction;

e) Treat stormwater runoff as a valuable natural resource of the City of Las Cruces, which is prone to drought, by encouraging water collection and infiltration on site;

f) Control the adverse impacts associated with increased and high-velocity stormwater runoff on natural drainage ways and stormwater structures due to increased development and its creation of new impervious surfaces;

g) Integrate stormwater management measures into the landscape and site planning process;

h) Provide aesthetically pleasing solutions to stormwater management and erosion control measures by integrating permanent measures into the overall landscape and site design;

i) Facilitate compliance with state and federal standards and permits by owners and operators of construction sites within the City; and

j) Assist the City in compliance with all federal and state laws, regulations, and permits applicable to stormwater discharge.

2. Administration

The Public Works Director shall administer and coordinate the implementation and enforcement of the provisions of this section.

3. Duties and Responsibilities of Public Works Director

Duties and responsibilities of the Public Works Director shall include, but are not limited to, the following:

a) Be the guardian of the MS4, including all dams, detention and retention basins, storm drains, outlet working channels, and pumping stations;

b) Maintain and hold open for public inspection all records pertaining to the provisions of this section;

c) Review permit applications to determine whether proposed developments will eliminate or reduce the pollutants entering the MS4;

d) Review, approve, or deny all applications for development permits required by the adoption of this section;

e) Maintain supervision over the operation and maintenance condition of the MS4 to ensure its safe and effective functioning and notify the streets systems administrator of any required maintenance and/or repair work;

f) Conduct an annual inspection of the MS4 and provide a written inspection report, including an assessment of the operational condition, safety, effectiveness, and maintenance condition of the system, and a line item list of required special maintenance or repairs to the streets systems administrator;

g) Establish and implement a program to locate and eliminate illicit discharges and improper disposals to the MS4;

h) Establish and implement a program to prevent, contain, and respond to spills that may discharge into MS4. This program shall be in conjunction with the fire department's hazardous materials division;

i) Establish and implement a program to identify and control pollutants in stormwater discharges from any construction or commercial facility that the Public Works Director determines is contributing a substantial pollutant loading to the MS4.

4. General Prohibitions

a) No person shall introduce or cause to be introduced into the MS4 or waters within the jurisdiction of the City any discharge that is not composed entirely of stormwater other than those that are identified in the following section.

b) It is an affirmative defense to any enforcement action for violation of subsection **a)** above that the discharge was composed entirely of one or more of the following categories of discharges:

i) A discharge authorized by and in full compliance with an NPDES permit (other than the NPDES permit for discharges from the MS4);

ii) A discharge resulting from firefighting;

iii) Agricultural stormwater runoff;

iv) A discharge from water line flushing, but not including discharge from water line disinfected by super chlorination or other means unless it contains no harmful quantity of chlorine or any other chemical used in line disinfection;

v) A discharge from residential lawn watering, residential landscape irrigation, or crop irrigation, water;

vi) A discharge from a diverted stream flow or natural spring;

vii) A discharge from uncontaminated pumped groundwater or rising groundwater;

viii) Uncontaminated groundwater infiltration to the MS4;

ix) Uncontaminated discharge from a foundation drain, crawl space pump, footing drain, or sump pump;

x) A discharge from a potable water source not containing any harmful substance or material from the cleaning or draining of a storage tank or other container;

xi) A discharge from air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant;

xii) A discharge from individual residential vehicle washing;

xiii) Uncontaminated discharge from riparian habitat or wetland; and/or

xiv) Discharge from water used in street washing provided that the water is not contaminated with any harmful cleaning substance.

c) No affirmative defense shall be available under subsection **b)** above if the discharge or flow in question has been determined by the City to be a source of a pollutant or pollutants to the waters of the United States or to the MS4, and written notice of such determination has been provided to the discharger.

5. Specific Prohibitions and Requirements

a) The specific prohibitions and requirements in this section are within but do not limit the general prohibition of all the discharges prohibited by **Sec. 38-3.F.4. General Prohibitions**.

b) No person shall introduce or cause to be introduced into the MS4 any discharge that causes or contributes to causing the City to violate a water quality standard, the City's NPDES permit, or any state- or federal-issued discharge permit for discharges from its MS4.

c) Additional Requirements

Additional requirements which may be requested from operator could include:

i) Location of all easements and rights-of-way;

ii) The delineation, if applicable, of the 100-year floodplain, floodway, if applicable, and any on-site or adjacent wetlands;

iii) Percolation test results for all areas with retention ponds or other facilities designed for infiltration and a description of techniques to be used to prevent the clogging of soil pores by fine sediment;

iv) A description of the approximate area of the watershed above the site, including the vegetative coverage and impervious surfaces;

v) SWPPP;

vi) The NOI.

d) Denial and Review

The Community Development Director may deny approval of any building permit, grading permit, subdivision plat, site development plan, or any other City approval necessary to commence or continue construction, or to assume occupancy, on the grounds that the management practices described in the plans, or observed upon a site inspection by City personnel, are determined not to control and reduce the discharge of sediment, silt, earth, soil, and other materials associated with clearing, grading, excavation, and other construction activities to the maximum extent practicable. Together with written notification to the applicant that the approval sought is denied, the Public Works Director shall provide the applicant a written explanation of the reasons for the denial. The applicant may request review of the decision made by the Community Development Director or by the Development Review Committee. Any such request for review shall be made within ten days of the date the applicant receives notification of the decision by the Community Development Director. The decision whether or not to review the decision shall be within the sole discretion of the Committee and may be limited to written materials considered by the Committee to be relevant.

e) Inspections and Corrective Action by the City

The City of Las Cruces, through its designated agent(s), shall inspect sites throughout construction activities and either shall approve that portion of the work completed or shall notify the permittee that the work fails to comply with the provisions of this Code, State Administrative Code and/or federal NPDES regulations. Corrective action for non-compliance issues shall begin immediately. Completion of corrections shall not exceed seven days. Failure to comply will result in an immediate stop work order of construction on the site.

f) Increase in Minimum Standards

The Public Works Director and/or the Community Development Director may require implementation of more than the minimum stormwater standards if arroyos on site, or immediately downstream of a site, show evidence of increased flooding, accelerated erosion (erosion caused by development activities that exceeds

the natural processes by which the surface of the land is worn away), channel erosion or sedimentation. Increased requirements shall be limited to the following on-site measures:

i) Erosion control measures extended to a broader area of the site than the development area;

ii) Revegetation of highly eroded areas;

iii) Arroyo restoration or other erosion control measures within highly eroded channels; or

iv) A combination of the above measures.

g) Variance from Stormwater Quality Management On Site

i) The Public Works Director may authorize alternative methods if the following conditions are met:

a. Stormwater quality can effectively be controlled through private off-site mitigation or through an arrangement to use an existing regional stormwater management facility.

b. Any of the following conditions apply:

i. The soil is not stable as demonstrated by a geotechnical report certified by a professional engineer licensed in the State of New Mexico.

ii. A licensed professional can clearly demonstrate and provide technical basis to support that the site use is not consistent with the capture and reuse of stormwater.

iii. Other physical conditions exist that do not leave sufficient area for on-site stormwater quality control.

iv. The developer constructs a project in accordance with drainage design standards to replenish regional groundwater supplies at an off-site location that is located in the same drainage basin within the boundaries of the development site.

v. Acquisition of surface water rights may be required in order to implement management off site.

ii) The basis for requesting private off-site mitigation or a variance request is clearly demonstrated in the Drainage Plan or negotiated during the PUD process (see **Sec. 36-5.D. Planned Unit Developments (PUDs)**).

h) Notification or Permitting by Other Agencies

Activities permitted by this section may also require notification or permitting by other agencies, including but not limited to written approval from the Elephant Butte Irrigation District or other official watercourse related organization, the federal Environmental Protection Agency, the United States Army Corps of Engineers, the Federal Emergency Management Agency (FEMA) and the New Mexico Environment Department (NMED).

## G. Low-Impact Development and Green Infrastructure

1. LID strategies shall be considered and developed as part of the development drainage plan in order to minimize required stormwater detention or retention volumes. LID strategies shall be considered for both commercial and residential development and should demonstrate consideration of the local climate and soil types and availability of water for maintenance of trees and vegetation. The City's Landscape Architect shall maintain a list of approved plant materials.
2. The Technical Manual and **Sec. 38-4. Low-Impact Development and Green Infrastructure** include approved LID methods to improve stormwater quality. Such LID methods must be shown on the final Drainage Report.

## H. Drainage System Operation and Maintenance

1. The actual effectiveness of any storm drainage system compared to that determined through modeling and other engineering computation procedures may differ greatly. The intake capacity of a storm drain inlet can be reduced by more than 75 percent due to debris accumulation. Trash collecting on a pier of a bridge over a flood control channel may actually direct water out of the channel although the discharge is well below the channel design

capacity. Sand and silt accumulations within a storm sewer may completely block the line. Pump stations that have not been regularly exercised may not operate when called upon.

2. In order to increase system efficiency and improve the City drainage systems, the following maintenance guidelines shall apply to operators of private drainage systems:

**Figure 38-3-1. Private Drainage System Maintenance Guidelines**

| Facility | Maintenance | Inspection |
|---|---|---|
| Channels | Monthly June-October | Semiannual |
| Pump stations | Monthly June-October | Semiannual |
| Detention/Retention facilities | As necessary, monthly June-October | After any major storm (one inch or greater) |
| Storm sewer systems | Annual | Biannual |
| Storm sewer inlets | After rainfall events or biweekly during rainy periods | Semiannual |

3. Proper operations and maintenance of storm drainage and flood control facilities includes both cleaning and minor repair to the facilities as well as completely rebuilding some facilities which have, through weathering or lack of maintenance, been rendered useless or present a threat to public safety. The purpose of the operation and maintenance is to maintain the design capacity and the use of the facility.

4. Community Ditches and Parkways

   The maintenance, cleaning, weed and grass removal, upkeep and repair of community ditches and parkways within the City shall be the responsibility of the owners of the abutting property, whether or not such persons are users of water in the community ditch.

5. Maintenance Responsibilities for Stormwater Systems

   a) Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately-owned structures within or adjacent to the watercourse, so that such structures will not become a hazard to the use, function or physical integrity of the watercourse.

   b) The stormwater management system shall be maintained in good condition and promptly repaired. Maintenance shall include the repair and restoration of all grade surfaces, walls, swales, drains, dams, ponds, basins, site restoration measures, associated vegetation, and any other stormwater measure constructed on site. Such maintenance shall be in accordance with the National Pollutant Discharge Elimination System Manual "Storm Water Management Guidelines for Construction and Industrial Activities", latest version.

   c) All stormwater management measures and facilities shall be maintained by the fee simple owner of the property, a homeowners association that can demonstrate that it not be disbanded during the life of the facility or a regional entity specifically dedicated to the maintenance of a regional pond, unless a dedication of the stormwater management system has been required or accepted by the City, in which case, the City shall be responsible for maintenance. Maintenance agreements shall be recorded at the County Clerk's Office and the rights and responsibilities for the maintenance of the drainage structures will be associated with the property in the event of a transfer of ownership, unless and until the drainage structures are modified or removed. Any and all changes to the maintenance agreement will be required to be recorded at the County.

   d) Owner(s) of drainage structures, including ponds, that discharge or connect to the City of Las Cruces stormwater utility (MS4) or discharge into the Waters of the United States within the City of Las Cruces city limits must conduct, at a minimum, an inspection of each drainage structure every three years following a

passing inspection beginning when the property owner assumes ownership of the property and files the maintenance agreement.

i) Privately maintained infrastructure shall be inspected by City personnel on a routine basis. Inspection shall include, but not be limited to:

a. Inspection and maintenance records; review of design and technical specifications of infrastructure; physical inspection of the facility; and review of the required maintenance agreement.

b. Erosion will be noted in physical inspection with corrective actions required.

c. Sediment accumulation will be noted by required engineered controls including sediment gauges, staffs, or designed elevation of pond depth, to determine if sediment removal is required.

ii) The City may choose to provide a pre-formatted inspection report to be used for each inspection. Any maintenance and repair deficiency identified in the inspection report must be adequately addressed to ensure compliance with the requirements of the City. Upon completion of all necessary maintenance, repair or deficiency identified in the inspection report, the drainage structure shall be re-inspected at the Owner's expense. The re-inspection report shall be filed and approved by the City confirming that all corrective measures have been completed.

iii) If the Owner(s) responsible for maintaining the drainage structure(s) fails to properly maintain the structures or submit certified inspection reports, the City will send a written notice to the owner(s) to correct the problem within 30 days from the Owner(s) receipt of the notice. If the owner(s) fail to comply with the notice, the City may initiate action as outlined in the subsequent section, Maintenance Agreement.

e) Prior to project construction plan approval by the City, applicants must ensure implementation and maintenance of the Best Management Practices (BMPs). Applicants shall be required to submit a maintenance agreement and operation and maintenance plan prior to issuance assuring that all permanent BMPs will be maintained throughout the use of the project site.

6. Maintenance Agreement

The maintenance agreement shall include the following:

a) Operation and Maintenance (O&M) Plan

The applicant shall include an operation and maintenance (O&M) plan, prepared satisfactory to the City, with the approved maintenance agreement, which describes the designated responsible party to manage the stormwater BMP(s), including maintenance frequency specific maintenance activities (including maintenance of storm drain inlet markers), copies of agency permits and any other necessary activities. At a minimum, maintenance agreements shall require the applicant to provide inspection and servicing of all permanent BMPs on an annual basis. The project proponent shall complete and maintain O&M forms to document all maintenance requirements. Parties responsible for the O&M plan shall retain records for at least five years following the date that the maintenance occurred. These documents shall be made available to the City for inspection upon request at any time. O&M plan shall require engineered controls, including staffs or gauges, to facilitate inspection of sediment accumulation in retention and detention facilities.

b) Access Easement/Agreement

Unless the applicant accepts permanent maintenance responsibilities, the applicant shall execute an access easement, if needed, to the official maintenance entity that shall be binding on the land throughout the life of the project.

c) Maintenance Violations

If, after notice by the City to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) or responsible party within 30 days, the City may perform or contract all necessary work to place the facility in proper working condition. The owner(s) or responsible party of the facility shall be assessed the associated costs of the work and shall reimburse the costs for said work. In the event of non-

payment of work, a lien will be placed on the property associated with the repair, maintenance or corrections of deficiencies identified by the City.

7. Citizen Participation

   a) All citizens are encouraged to report to the City any spills, releases, illicit connections, other instances of anyone discharging pollutants into the MS4 or waters of the United States, and any other violation of this section of which they become aware.

   b) The Public Works Director or City Codes Enforcement Department shall receive all such citizen reports by email or web reporting (Ask 311), telephone, in writing, and in person. A written record of each citizen report will be prepared and kept on file for a period of three years, and a copy of the City's record of the report will be furnished to the reporting citizen upon request. Also upon request, the City will inform the reporting citizen of any action undertaken by the City in response to the citizen's report.

## Sec. 38-4. Low-Impact Development and Green Infrastructure

### A. Purpose

1. Beneficial alternative and innovative solutions to stormwater management should be included in projects during the design process, with the primary intent of reducing the volume of stormwater runoff from a site and increasing water quality. This is accomplished by using a combination of strategic site design, stormwater control measures, and landscape elements to capture and treat water closer to the source (the site upon which the water initially falls). This approach can help prevent localized flooding, provide an array of multi-benefits for the community, and reduce the need for or impact on traditional stormwater infrastructure and facilities.
2. Low Impact Development (LID) is an approach to site planning that seeks to protect natural water processes on a site by avoiding impacts of development to the extent possible via protecting undisturbed open space and existing vegetation, minimizing land disturbance, and minimizing impervious cover. LID may also include strategies that restore predevelopment hydrological conditions on a site.
3. Green Infrastructure (GI) includes techniques that utilize plants, soils and other natural elements and processes to store, slow, and/or filter water on-site through functional landscape elements. GI is appropriate for use in both greenfield and urban developments.

### B. Applicability

1. LID and GI techniques should be utilized on all new developments or redevelopments.
2. A menu of elements outlined in the Technical Manual allows for the application of LID and GI elements in a variety of contexts, from low-density single-family neighborhoods to urban mixed-use developments.
3. Projects that are not otherwise required to meet the GI/LID requirements may participate in an incentive program, as outlined in the Technical Manual.

### C. General Requirements

1. All LID and GI elements shall be regionally and contextually appropriate.
2. LID and GI elements shall seek to maximize the provision of multi-benefits as applicable and appropriate.
3. With approval of the Public Works Director, the City may accept maintenance duties of GI elements constructed in the right-of-way.
4. See the Technical Manual for a menu of approved LID and GI elements.

### D. LID and GI Incentive Program

In addition to achieving the minimum requirements, the Technical Manual outlines a series of credits that projects may achieve, with higher levels of credit given based on the quality or quantity of the LID/GI elements used and more credits offered to sites with higher allowable levels of impervious cover (IC) where installation of elements is more demanding (e.g., high-density urban projects get higher levels of credits than low-density suburban projects).

1. Other City Requirements

   Projects must comply with all City code requirements, including landscape provisions and maintenance requirements. Elements shall not be double counted with other City requirements (e.g., landscape elements) already required by code. LID/GI elements used towards this incentive program must be beyond minimum code requirements, except as outlined in the Technical Manual. Enhancement of landscape elements required by code may count for partial incentive credit, for example, using low-maintenance, drought-resistant native plant species in landscape areas otherwise required by code.

2. MS4 and Other Requirements

Projects must comply with the requirements of the latest active MS4 permit and any other applicable U.S. Environmental Protection Agency or state-level requirements regarding water quality and stormwater. GI and LID elements used to meet these requirements may count towards the LID/GI elements credits required per this Code.

3. Alternative Compliance

   Credit may be granted if the project obtains certification under a third-party sustainability certification, as noted in the Technical Manual. If credits are provided under the expectation of a third-party certification but the project ends up not achieving those credentials, the project must achieve equivalent credit via provision of LID/GI elements outlined in the Technical Manual or pay a fee-in-lieu.

4. Fee in Lieu

   Credit may be granted for the payment of a fee in lieu of providing on-site LID/GI elements, as approved by the Community Development Director and Public Works Director, and in consultation with the City's Landscape Architect and Forester/Arborist. Fees paid through this program shall go into the Green Infrastructure Fund which allows the City to install or maintain GI elements elsewhere in the City, at their discretion. Fee calculation amounts are provided in the Technical Manual.

5. The City reserves the right to inspect GI elements installed under the incentive program on private property for proper installation, maintenance, and ongoing performance. If the City deems the element to be not installed, maintained, or performing properly the owner must rectify the issue in a reasonable timeframe or be subject to penalty as applicable for not delivering on approved development agreements.

6. Credit may be granted to GI elements constructed within the right-of-way, per **C. General Requirements**.

7. Additional requirements can be found in the Technical Manual.

## Sec. 38-5. Parks, Trails, and Open Space

### A. Purpose

The purpose of this section is to ensure that new master plan or subdivision development allocates resources for accessible and useable parks and trails in accordance with the adopted Parks and Recreation Master Plan, the Comprehensive Plan, the Active Transportation Plan and any applicable adopted City plan.

### B. Applicability

1. Single-family Residential Development. The requirements of this section for park land and trail dedication shall apply to all developments resulting in the creation of new residential dwelling units.
   a) Exceptions:
      i) Replats of property if no increase in dwelling units will occur.
      ii) Property in the Rural Character Area or zoned OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban) or OS-2, Open Space-Drainage District (Rural, Suburban, Urban).
2. Multi-family Residential Development. The requirements of this section for park land and trail dedication shall apply to all developments resulting in the creation of new multi-family residential units.
3. Non-Residential Development. The requirements of this section for open space and trail dedications shall apply to non-residential developments.
   a) Mixed-use developments may propose park land, trails, or open space dedication or a combination to satisfy the requirements of this section.
   b) Exceptions:
      i) Single-lot commercial developments containing less than 5 acres; and
      ii) Property zoned Industrial is not required to dedicate open space, however shall provide connections and dedicate trail easements if adjacent to an existing or proposed trail corridor in accordance with **Sec. 38-5.D. Trails**.
      iii) Projects with approved ~~Master Development Plans or Development Agreements that provide parks and trails in accordance with the Active Transportation Plan~~applicable adopted plans.
      iv) Approved Planned Unit Developments (PUDs) that provide parks and trails in accordance with applicable adopted plans.
4. Park Impact Fees will be assessed at the time of building permit for other park facilities as outlined in Section 33-32 of the LCMC.

### C. Park Land

1. Park Land Dedication

   Dedication of park land and installation of park improvements within new developments and redevelopments is required to provide shared space and amenities for the health and enjoyment of neighborhood residents.

2. The amount of park land required to be dedicated (or fee in lieu of dedication) is as follows:

   (3 acres x number of dwellings *x* people per unit*) / 1,000 people = Acres to be dedicated

   *Multi-family and single-family persons per unit shall be based on adopted land use assumptions.

3. Density shall be determined by the units specified on a master development plan or site plan or, in cases where not specified the maximum density per applicable zoning district should be used.

4. Parkland Standards

   Land may be dedicated for neighborhood parks to serve new development. Dedicated acreage may also be combined with existing parkland to accommodate larger community park facilities. At a minimum, parkland shall comply with the following area and location standards:

   a) Land dedicated for a neighborhood park shall be a minimum of three contiguous acres in size. Land may be considered contiguous if it abuts both sides of a street with a Local classification and the separate areas are joined by a marked pedestrian crossing; and

   b) The land must provide a minimum of 200 feet of continuous street frontage; and

   c) Walkshed. Dedicated parkland shall accommodate neighborhood walksheds of ¼ mile by providing a safe, accessible sidewalk or trail connections from the outside edge of the park property to the adjacent neighborhoods; and

   d) The land must be situated to allow convenient pedestrian and bicycle access; and

   e) Park area must be visible from adjacent homes or buildings and public streets; and

   f) Drainage areas or areas with undulating topography or slopes exceeding five percent are acceptable if the areas are to remain in their natural state and will preserve one or more significant features such as creeks, watersheds, viewsheds, native clusters of trees, or habitat for native or migratory species; and

   g) At the discretion of Parks and Recreation and in cases of specialized facilities, no more than half the area of the park land dedication may be located as follows:

      i) On a slope of 20 percent or greater; or

      ii) Within an arroyo; or

      iii) Within the 100-year floodplain.

   h) The location of dedicated park land shall also address the following, with specific consideration where service gaps are identified within the Parks and Recreation Master Plan:

      i) Proximity to existing or planned transit routes; and

      ii) Concentrations of multi-family housing and affordable developments; and

      iii) Population density; and

      iv) Areas of low household income.

5. Parkland Improvements

   Improvement shall be designed and built in accordance with ~~Installation of required improvements shall defer to~~ the Parks and Recreation Facility Standards Manual and shall be coordinated with and approved by the Parks Director or their designee.

6. Fee in Lieu of Required Parkland Dedication and Improvements

   When a fee is paid in lieu of parkland dedication and improvements in accordance with **Sec. 38-5.I**, the applicant shall provide an estimate of the cost of required park improvements. The applicant shall pay the amount of the approved estimate to the City in lieu of construction of required improvements to comply with this Section.

## D. Trails

1. Trail Dedication and Construction

When a trail or trail extension is proposed on the subject property, the decision-making body is authorized to require that a~~n~~ dedicated tract or easement be provided for the trail. Sufficient land shall be dedicated and improved to provide trails in conformance with ~~the Active Transportation Plan and the Parks and Recreation Master Plan.~~applicable adopted City plans.

a) Extensions of the public trail network shall be included in the calculation of the amount of dedicated park land when the trail and amenities, including street trees and landscaping, street furnishings, or other improvements outlined by the Parks and Recreation Facility Standards Manual or applicable adopted plans are installed.

b) Connections to existing and proposed trail corridors shall be~~are~~ dedicated and built when the trail corridor is adjacent to or connects to a proposed development that meets **Sec. 38-5.B. Applicability**.

c) ~~Minor alignment adjustments may be appropriate to accommodate site-specific characteristics to achieve the ideal trail alignment~~. Trails shall be located and constructed as illustrated in applicable adopted plans.

~~c)~~

~~d)Trails shall be located and constructed as set out in applicable adopted plans.~~ d. Minor alignment adjustments may be appropriate to accommodate site-specific characteristics to achieve the ideal trail alignment.

~~e)~~d)Trail Connections to adjacent land shall be provided when:

i) The adjacent land is publicly owned or otherwise open to the public, or

ii) The adjacent land is under common ownership with the parcel proposed for development.

2. Trail Standards

Unless otherwise specified, all trails shall be constructed to adopted City standards and criteria from the Parks and Recreation Master Plan or any other applicable adopted City plan, and the Parks and Recreation Facility Standards Manual and shall conform to the requirements of the Americans with Disabilities Act, where applicable and as may be amended. Universal design should be incorporated whenever practical.

Extensions of the public trail network or portions thereof may be included in the calculation of the amount of dedicated park land upon the approval of the Parks and Recreation Director or designee and when the trail and amenities are installed.

Connections to existing and proposed trail corridors are dedicated and built when the trail corridor is adjacent to or connects to a proposed development that meet **Sec. 38-5.B. Applicability**.

## E. Open Space

1. Open Space Dedication

Open space dedication may be considered to preserve natural or environmentally sensitive areas, protect historically or culturally significant sites, or provide public gathering places such as plazas within a development or when outlined in any applicable adopted City plan.

2. Public open space may be dedicated in lieu of or in combination with park land to meet the minimum requirements of this section with review and approval by the Parks and Recreation Director or designee.

a) Amenities and improvements for a dedicated public open space shall comply with the Parks and Recreation Facility Standards Manual. Open Space improvements shall be determined during the development review process and shown on the Preliminary Plat or Site Plan for the proposed development.

3. Private open space may be included to address part of the required dedication in accordance with **Sec. 38-5.I.3**.

## F. Dedication Procedures

1. Proposed Development

a) The developer shall provide an area or areas for public parks, trails, or open space, or a combination, in accordance with the Las Cruces Parks and Recreation Master Plan and any other applicable adopted City plan.

b) The developer shall dedicate easements or deed property for trails and trail connections in accordance with applicable adopted plans.

2. Planning & Zoning Commission. The developer and the DRC, in consultation with the Parks and Recreation Advisory Board, as appropriate, shall make a joint recommendation to the Planning & Zoning Commission as to the land dedication or fee in lieu of dedication. If they are unable to agree, the developer and the DRC shall make separate recommendations to the Planning & Zoning Commission who shall determine the issue.

## G. Criteria for Dedication

1. Land shown as dedicated on a Final Plat shall be free from any of the following:

a) Human inhabitants;

b) Hazards, including scrap material, junk, vehicles or equipment, above-ground or below-ground environmental contaminants or holding tanks;

c) Encumbrances of any kind, including deed restrictions, liens, or easements, unless they confer to the benefit of the City or will not interfere with the use of the property as a park;

d) Other undesirable objects or features that may accrue to the liability of the City based upon an inspection the City conducts at its discretion prior to accepting the land for dedication.

2. Land dedicated for open space or for unimproved parkland or trails must be preserved in its pre-developed state and may not be used for construction activities or storage of materials or equipment during construction of the subdivision or development, unless otherwise specified in a development agreement.

## H. Zoning Requirements

1. Lots created for the purpose of park land or trail dedication shall not be required to meet the standards for lot size or area within any zoning district.

2. Lots created for the purpose of park land dedication to serve the residents of the surrounding area shall not be subject to POA/HOA dues or other fees established for maintenance or other purposes within the neighborhood.

## I. Alternatives to Park Land Dedication and / or Improvements

If suitable land for park land dedication is not available, the subdivider or developer may propose one or more of the following in lieu of dedication and upon the approval of the Parks Director or designee:

1. Fee in Lieu

A fee set by the City Council based on the market value of the required acreage and improvements.

a) The City shall determine the amount of the fee at the time of Preliminary Plat or Site Plan approval and the developer or subdivider must pay all fees before recording a Final Plat or obtaining a Building Permit.

b) The City will reserve the contributed fees for the purpose of purchasing and/or improving public park and recreational land in the City in a manner that is consistent with the service level and proximity criteria in the Las Cruces Parks and Recreation Master Plan.

c) If the City fails to expend all the contributed funds on parks or improvements to parks in accordance with NMSA 5-8-11, the original property owner, subdivider, or developer or their successors and assigns in chain of title, may request in writing that the City refund any remaining funds in accordance with NMSA 5-8-17.

d) Park Fund Established

i) Establishment

A separate fund to be deposited at the highest interest rate permitted by law to be entitled "Park Fund" shall be and is hereby created. The money paid into the fund shall be held in said fund in trust to be used solely and exclusively for the purpose of purchasing and/or improving public park and recreational land within the City.

ii) Purchases and Use of Funds

The principal and interest deposited and kept in the Park Fund shall be used solely for the purpose of purchasing and/or improving land for public park and recreation uses.

2. Improvements to Existing Parks

Improvements the developer or subdivider pledges to perform or provide in existing City parks in accordance with a recommendation from the City and consistent with adopted City standards.

3. Private Park or Open Space Development

Providing private parkland or open space shall account for up to 50 percent of the required public park land dedication, provided that the private park conforms to the following:

a) The property is deed-restricted for use as a park or reserved open space;

b) The property is shown on the Final Plat as park land or common area;

c) Parks are built to the standards of a public park and conform to the intent of the Parks and Recreation Master Plan and the Comprehensive Plan; and

d) The park or open space is owned and maintained by a homeowners' or property owner's association.

4. Other Substitutions

a) Specialty parks less than 3 contiguous acres;

b) Combination of improved parkland, trails, and open space that result in 3-acres;

c) Improved parkland located adjacent to developable vacant property that can be expanded with future development; and

~~d)~~d) Improved parkland installed by the developer whereby improved acreage in excess of the development's minimum requirement is reimbursed by the City as outlined in a reimbursement agreement approved by City Council.

## J. Dedication Prior to Development Application

If a developer wishes to dedicate land that exceeds the requirement of this section reimbursed by the City as outlined in a reimbursement agreement approved by City Council.~~, the developer shall make a written request to the Planning & Zoning Commission who may grant the developer a credit equivalent to said excess.~~

~~The proposed dedication shall be included in the review and recommendation by the DRC prior to consideration by the Planning & Zoning Commission.~~

1. The approved credit shall be applied toward the developer's obligation under this section for any subsequent development by the same developer/owner within a one-half (½) mile walkshed of the original development site or as recommended by the DRC and approved by the Planning & Zoning Commission.

## K. Timing of Dedication or Fee in Lieu

1. Timing of Land Dedications

a) Dedication of park land shall occur through the filing of a Final Plat that has been approved by the City. Completion of construction of park improvements to the satisfaction of the City shall be a precondition of the filing of a Final Plat unless either a Performance Security acceptable to the City has been submitted or the Director of the Parks & Recreation Department agrees to waive this precondition. When not dedicating with a Final Plat, a separate instrument addressing the items in **K.1.a)ii)** below is required.

i) The proposed dedication shall be shown on the Preliminary and Final Plat or Site Plan and shall be reviewed as an element for final approval of an application for development.

ii) Submission of dedication documents is required for final approval. Dedication documents include, but are not limited to:

a. A metes and bounds description of the land to be dedicated,

b. A survey of the property,

c. A copy of the fee simple deed and title policy for the property,

d. An environmental statement (ESA Phase 1) that indicates the site is free of environmental contamination or hazards, and identifies critical environmental features, and

e. Documents conveying ownership to the City by warranty deed, transferring the property in fee simple to the City, and ensuring that the property is free and clear of any mortgages or liens at the time of such conveyance.

iii) The park land shall be labeled on the Final Plat or Site Plan as "Public Park, Trail or Open Space (as applicable)land dedicated to the City of Las Cruces" with the acreage of land labeled on the Plat or Site Plan.

iv) Any disturbed land shall be restored, and the soil stabilized by vegetative cover by the developer.

b) Deeded land is dedicated public property and not subject to any right of reversion or refund.

2. Timing of Fees in Lieu

a) A cash contribution in lieu of required land development shall be payable before the City signing the Final Plat, or issuance of building permits for a Site Plan.

b) With the approval of the Planning & Zoning Commission, a developer may pay such contribution in three equal installments to be paid in full within one year of Final Plat approval.

3. Multi-phase developments shall dedicate sufficient park land and trail easements to meet or exceed the proportionate total requirement for the phase being recorded on the Final Plat.

4. Timing of Improvements

a) Subject to Adequate Facilities and Substantial Completion.

b) Improvements must be completed no later than 50% build-out or 2 years after the subdivision plat is recorded, whichever comes first.

c) If required park improvements are not installed at the time of subdivision construction a form of Performance Security and a bid from the contractor shall be filed with the City, along with a development agreement outlining the improvements to be completed, any cost sharing agreements (e.g., oversizing), and other terms as required by the Parks and Recreation Director.

i) The amount of such Performance Security must cover 125 percent of the projected cost of all required improvements agreed to by the Parks and Recreation Director. The amount shall be based on the projected costs that the City – not a private developer – would incur at the time improvements are scheduled for completion.

ii) Any of the following types of security shall be filed with the Community Development Director:

a. Performance bond. A surety bond acceptable to the City.

b. Escrow account. An account established with a financial institution.

c. Irrevocable stand-by letter of credit. The City shall have irrevocable authority to draw a draft for the projected cost of improvements.

d. Cashiers' check. An amount of security acceptable to the City.

e. Any other form of security approved by the Community Development Director, Finance Director, and legal staff.

d) The City shall not issue any building permits within the subdivision until all improvements have been installed and inspected, unless Performance Security is provided.

e) Any further extension of time for completion of required improvements shall require approval of the Planning & Zoning Commission.

f) Updated improvement cost estimates and additional performance security may be considered as a condition of any approved extension.

## Sec. 38-6. Tree Preservation

### A. Purpose

The purpose of this section is to support the following objectives from the Comprehensive Plan:

1. Maximize tree cover;
2. Improve air quality;
3. Manage stormwater runoff;
4. Reduce the community's overall carbon footprint;
5. Preserve natural amenities; and
6. Enhancement of social and economic benefits.

### B. Applicability

The regulations herein apply to all new development and any redevelopment or modifications that affect a Protected Tree.

### C. Exempted Trees

The regulations herein do not apply to the following trees:

1. Trees smaller than 6 inches DBH;
2. A dead or diseased tree, which is deemed beyond the point of recovery and at risk of spreading disease;
3. Trees that cause a safety hazard (e.g., blocking the clear sight triangle as required by **Sec. 38-2.H**);
4. Trees planted and growing on the premises for sale at a nursery or tree farm; or
5. Plants classified as a noxious species by the New Mexico Department of Agriculture.

### D. Protected Trees

1. Trees that are not exempt from preservation are considered Protected Trees and shall require a Tree Removal Permit from the Community Development Director, upon a determination that there are no feasible alternatives for site development. A Tree Removal Permit may be requested in conjunction with the Site Plan.
2. Protected Trees may be credited toward the landscaping requirements in **Sec. 38-7.D. Required Landscaping**, with each counting as three trees.
3. Protected Trees must be protected during construction activities in accordance with **Sec. 38-7.E. Critical Root Zone Protection**.
4. Any Protected Tree that is damaged resulting in death of the tree or removed without a Tree Removal Permit, including those damaged during construction or within two years following issuance of a Certificate of Occupancy, shall be subject to a fine in accordance with **Sec. 34-1.H. Violations and Enforcement**, which shall be assessed until the removed tree is mitigated in accordance with **Sec. 38-6.E** below.

## E. Replacement of Existing Trees and Tree Mitigation Plans

1. Any Protected Tree that is removed from a site must be replaced with a new or transplanted tree meeting the minimum size requirements in **Sec. 38-7.C.3.c)**.
2. Any applicant proposing to remove a Protected Tree must submit a Tree Mitigation Plan. The Tree Mitigation Plan shall be submitted to the Community Development Director for approval and may be prepared as part of a Landscape Plan, if applicable (see **Sec. 38-7.F. Landscape Plan**). The Tree Mitigation Plan shall show the following:
   a) Existing/proposed topography
   b) Location of property lines, easement, rights of ways, setbacks, parking areas, and sidewalks
   c) Location, species, size (in DBH inches), and Critical Root Zone (see **Sec. 38-7.E**) of each Protected Tree.
   d) A tree inventory that summarizes the following:
      i) Total number of DBH inches on the site (for trees two inches DBH and larger);
      ii) Total number of inches DBH to be removed;
      iii) Total number of inches DBH to be preserved;
      iv) Location of proposed new or transplanted trees to mitigate any removed Protected Tree;
      v) Any proposed landscaping credits for preserved Protected Trees; and
      vi) A summary of the tree protection methods to be utilized.

## Sec. 38-7. Landscaping

### A. Purpose

The City wishes to promote and preserve visually attractive and pleasing surroundings, reduce erosion and runoff, and improve the quality of the environment. The City desires to have development in an attractive and high-quality manner. Therefore, landscaping shall be provided and maintained as set forth in this section and in accordance with the Comprehensive Plan and the Parks and Recreation Master Plan.

### B. Applicability

The requirements herein apply to all new construction, additions, or structural modifications unless otherwise noted herein.

### C. General Requirements

1. Clear Sight Triangle

   Any landscaping in the Clear Sight Triangle must comply with **Sec. 38-2.H. Clear Sight Triangle**.

2. Irrigation System

   The irrigation system and the landscaping shall be installed before the issuance of a Certificate of Occupancy unless a written agreement has been made with the City to extend the time of installation (e.g., in the event of a drought). Such agreements will be for a maximum period of nine months. Irrigation systems must comply with the Technical Manual.

   a) Exemptions: In particular situations, the Community Development Director, following consultation with the City's Landscape Architect, may allow an irrigation system to be omitted or a temporary irrigation system installed to establish the plantings and then removed once plant material is established.

3. Approved Plant Materials

   a) It is the City's expressed desire to promote drought-tolerant species.

   b) The City shall maintain a list of approved plant materials, which is included within the Technical Manual. All required landscaping materials must be selected from this list.

      i) An applicant may request approval of a plant type not included on the approved list for consideration by the Community Development Director.

      ii) Turf, other than those identified on the recommended plant list, is not permitted.

         a. Exemptions: In particular situations (e.g., golf courses), the Community Development Director, following consultation with the City's Landscape Architect, may allow the use of other turf grasses.

      iii) Artificial trees, shrubs, and plants are not permitted.

   c) At the time of planting, all vegetation must meet the following minimum size requirements:

      i) Evergreen trees: 8 feet tall

      ii) Deciduous trees: 1.5-inch DBH single-trunk trees; 1.25-inch DBH for multi-trunk trees

      iii) Shrubs and ornamental grasses: 5-gallon container

   d) Plantings must have good structure and a good root system, including no girdling roots, with no flaws as defined by the American Nursery and Landscape Association American Standard for Nursery Stock, ANSI Z60.1 – 2004 or latest version.

   e) No single plant species shall be used for more than 50 percent of the required landscape materials.

f) The Community Development Director is authorized to limit species and placement to protect aboveground and underground infrastructure.

4. Installation Timing

   All required landscaping must be installed prior to issuance of a Certificate of Occupancy.

5. Maintenance

   a) The owner of the landscaped property shall be responsible for maintaining the area in a healthy, clean, trimmed, weed-free and litter-free condition. Proper irrigation, pruning, fertilizing and pest management are also included as maintenance.

   b) Landscape in parkways shall be maintained by the property owner of the contiguous property.

      i) Exemptions: Parkways that abut the rear property line of residential development and abut a Collector or Arterial Street shall be maintained by the City.

   c) Landscape in medians may be maintained by the City, adjacent property owner(s), homeowners' association, and/or other arrangement approved by the City.

   d) All approved landscape material must be maintained in a healthy, thriving condition, or must be replaced with the same or a substitution approved by the Community Development Director within 60 days. Maintenance shall be in accordance with ANSI A300.

   e) All plant growth shall be controlled so that it will not interfere with the installation, maintenance, or repair of any public utility, nor shall it restrict pedestrian or vehicular traffic or constitute a traffic hazard. This includes preventing plant growth from blocking the Clear Sight Triangle, as required by **Sec. 38-2.H. Clear Sight Triangle**.

   f) If a resident landscapes any property that is dedicated to the City, such resident is responsible for maintenance of that area until a written agreement is made to the contrary with the City.

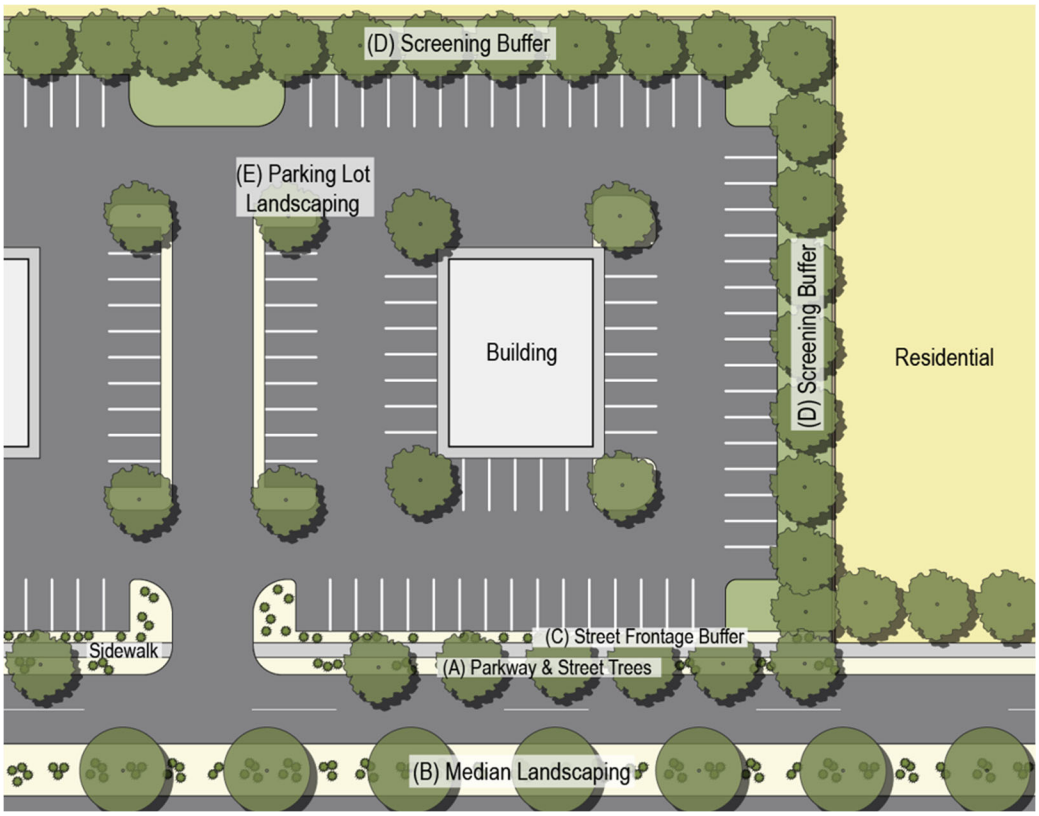
6. Payment in Lieu of Landscaping Parkways and Medians

   The Community Development Director, following consultation with the City's Landscape Architect, may determine that a payment in lieu of landscaping is acceptable in situations where meeting the above requirements is not feasible. Payment in lieu of landscaping may be approved by the Community Development Director, equal to the current costs of design, plantings and materials, construction, taxes, and contingencies that would otherwise be required to meet the standards herein.

## D. Required Landscaping

The following figure and table summarize the required landscaping types unless expressly exempt within each subsection:

**Figure 38-7-1. Required Landscaping Types**




| Landscaping Type | Requirement Summary | Applicability |
|---|---|---|
| (A) Parkway & Street Trees | Minimum 6' parkway width[1] with one tree per 30' of frontage along Streets in Urban Character Areas or 40' along Streets in Suburban Character Areas; plus one shrub per 25' feet of frontage. | Required on Arterials and Collectors for all new development or expansions of 20% or more. |
| (B) Median Landscaping | One tree per 250 square feet; plus one shrub per 250 square feet. | Required when the applicant constructs a street with a median or adjacent to an existing un-landscaped median. |
| (C) Street Frontage Buffer | Minimum 4' buffer extending the length of the parking or drive area with one shrub per 50 square feet of buffer. | Required for all new development (excluding 1-4 unit residential) or expansions of 20% or more when a parking lot or drive area is adjacent to the right-of-way. |
| (D) Screening Buffer | Varies; see **Sec. 38-8. Fencing, Screening, and Buffering**. | May be required depending on adjacent zoning; see **Sec. 38-8. Fencing, Screening, and Buffering**. |
| (E) Parking Lot Landscaping | Minimum 15% of the total parking area[2] shall be landscaped. A minimum of one live tree shall be provided for every 1,000 square feet of required landscaped area. A minimum of 20 live shrubs shall be provided for every 1,000 square feet of required landscaped area. One tree per 10 parking spaces. | Required for all development with more than 10 spaces in a surface parking lot. |
| (F) Lot Area Landscaping | Any unused area shall be retained in (or restored to) its natural state or landscaped in accordance with these standards. Residential lots (1-4 units) must have at least one tree in the front yard per 60' of frontage, in addition to any required street trees. | Required for all development. |

[1] Parkway width less than 6' requires approval from the Public Works Director and the Parks and Recreation Department.

[2] For the purposes of this section, the parking area includes the entire tract of land except for the building pad and fenced-in storage area.

1. Parkway & Street Trees

   a) Street trees and shrubs are required on all Arterial and Collector Streets within Suburban Character Areas or Urban Character Areas.

   b) Street trees and shrubs shall be placed in the parkway of the street, unless the Community Development Director requires different locations of trees based on a lack of adequate parkway, utility conflicts, topography, or a uniquely shaped lot.

      i) Exception: Residential lots with between one and four units may plant the required trees in the front yard.

   c) The spacing for all street trees shall be at 30 feet or less for streets in Urban Character Areas or 40 feet or less for streets in Suburban Character Areas. Street trees may be clustered, provided that the number of trees planted equals or exceeds the number that would be required if the trees were evenly spaced.

   d) Shrubs shall be provided at a rate of one shrub per 25 linear feet of parkway frontage in Suburban Character Areas or Urban Character Areas.

      i) Exception: Residential lots with between one and four units do not require shrubs.

   e) Median and parkway areas must be graded to initially retain stormwater within the median or parkway. Swales and small retention areas must be incorporated into the design such that stormwater runoff may be available to the trees and shrubs in addition to the irrigation water.

   f) The finished grade of the groundcover will be one-half inch to one inch below the back of curb or back of sidewalk.

2. Median and Public Area Landscaping

   a) These requirements apply to medians and other areas (e.g., subdivision entrances, drainageways, and rights-of-way) that are dedicated to the City or development adjacent to an un-landscaped median.

   b) Applicants shall submit plans for planting and irrigation for the approval of the Community Development and Parks & Recreation Departments, affected utilities and the State Highway Department, if appropriate, prior to construction. Any such dedication of land shall be in addition to the requirements for dedication of park land or fees in lieu thereof as stated in **Sec. 38-5. Parks, Trails, and Open Space**.

   c) The City has adopted landscape themes for medians that shall act as a guide for development of medians, which are included in the Technical Manual.

   d) Design guidelines for properties that are to be dedicated to the City shall be as follows:

      i) Grassed areas shall have a maximum design slope of 5:1, that is, five feet horizontal distance for every one foot vertical. Mounded groundcover areas shall have a maximum design slope of 3:1, that is, three feet horizontal distance for every one foot vertical.

      ii) Median and parkway areas must be graded to initially retain stormwater within the median or parkway. Swales and small retention areas must be incorporated into the design such that stormwater runoff may be available to the trees and shrubs in addition to the irrigation water.

      iii) The finished grade of the groundcover will be one-half inch to one inch below the back of curb or back of sidewalk.

      iv) Pedestrian crossing areas shall be surfaced with a hard paving suitable for foot and wheelchair traffic, consistent with the latest ADA and similar accessibility standards.

      v) All medians shall contain a minimum two-inch water stubout. Those medians in a series under one development shall contain one two-inch stubout and one two-inch conduit between medians which is suitable for electricity and water. The conduit shall be a minimum of four-inch class 200 PVC ~~two-inch schedule 40 PVC~~ and shall be placed a minimum of 24 inches underground.

vi) All drainage, retention and detention areas shall be buffered in accordance with **Figure 38-8-4. Required Compatibility Screen Type**.

vii) All planting and irrigation installation must be generally located within the center of the median to avoid future potential widening of the roadways, additional or expanded turning lanes or other modifications to the median.

viii) Median noses that are five feet to ten feet wide (back of curb to back of curb) must not be planted. Only groundcover or patterned and colored concrete may be installed in these areas. Median noses that are less than five feet wide (back of curb to back of curb) must be covered with patterned, colored concrete. Patterns may be score joint, broomed finish, or stamped, or a combination thereof. Colors must be appropriate to a public streetscape and must not be red.

3. Street Frontage Buffers

   a) Street Frontage Buffers are required when a parking lot or other vehicular area is adjacent to a street or right-of-way, intended to help block light trespass from headlights onto adjacent properties or right-of-way.

   b) Street Frontage Buffers shall be at least four feet in width and shall extend the width of the property line abutting the street with an exception for defined vehicular or pedestrian access points.

   c) Street Frontage Buffers shall be planted at a rate of one shrub per 50 square feet of buffer.

4. Screening Buffers

   Screening Buffers may be required along side and/or rear lot lines depending on the adjacent zoning. See **Sec. 38-8. Fencing, Screening, and Buffering** for requirements.

5. Parking Lot Landscaping

   The following regulations apply to any new development or redevelopment.

   a) A minimum area equal to 15 percent of the total parking area shall be landscaped.

      i) For the purposes of this article, the parking area includes the entire tract of land except for the building pad and fenced-in storage area.

   b) A minimum of one live tree shall be provided for every 1,000 square feet of required landscaped area.

   c) A minimum of 20 live shrubs shall be provided for every 1,000 square feet of required landscaped area.

   d) A minimum of 1 tree per 10 parking spaces.

   e) Landscape areas must be defined by a curb unless designed as a stormwater retention facility. See **Sec. 38-4. Low-Impact Development and Green Infrastructure** and the Technical Manual for more information regarding incentives for incorporating sustainable design.

6. Lot Area

   a) Any portion of the site not used for buildings, parking, driveways, plantings, plazas or designated gathering areas, walkways, utilities, or approved storage shall be retained in (or restored to) its natural state or landscaped in accordance with the following standards:

      i) Living groundcover (as permitted by the approved plant list),

      ii) Organic materials such as mulch or wood chips, or

      iii) Inorganic materials such as decorative gravel or rocks.

   b) Materials must be permeable, with any weed barrier allowing the percolation of standing water within 72 hours.

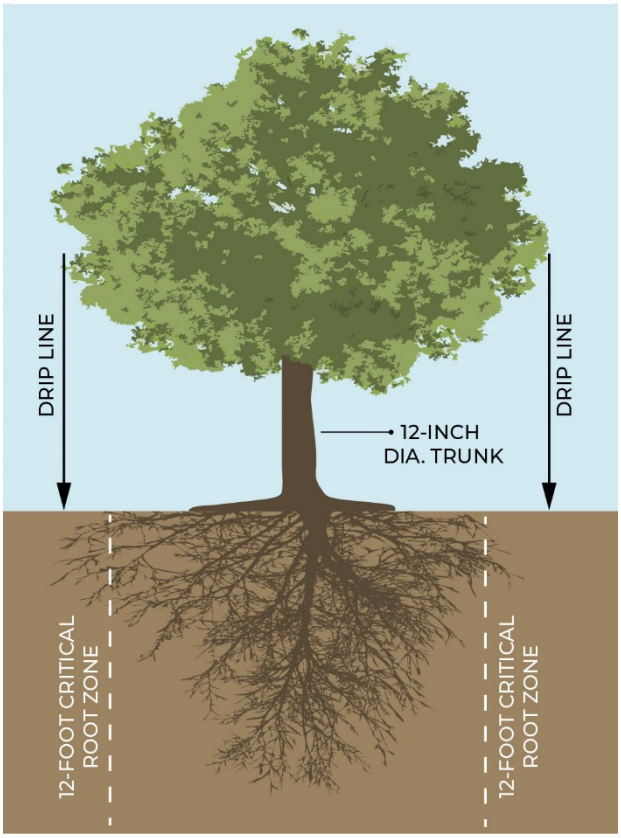
   c) Loose materials shall be contained by a curb or other suitable alternative to contain the materials within the landscaped area.

d) Residential lots (1-4 units) must have at least one tree in the front yard per 60 feet of street frontage, in addition to any required street trees.

## E. Critical Root Zone Protection

1. Every required tree shall have a Critical Root Zone (CRZ) surrounding the tree to protect the tree from damage or other harm.
2. The CRZ is measured as a radius outward from the trunk of the tree. The radius shall be determined based on ANSI A300 for the individual species. See **Figure 38-7-2** for an example.
3. The following activities are prohibited in the CRZ:
   a) Storage or parking vehicles, building materials, refuse, excavated soils, or dumping of poisonous or hazardous materials on or around the tree and roots. Poisonous or hazardous materials include, but are not limited to, paint, petroleum products, concrete or stucco mix, dirty water, or any other material that may be harmful to tree health;
   b) The use of tree trunks as a winch support, anchorage, temporary power pole, signposts, or other similar functions;
   c) Cutting of tree roots by utility trenching, foundation digging, placement of curbs and trenches, and other miscellaneous excavation without prior approval of the City;
   d) Soil disturbance or grade change;
   e) Vehicular traffic;
   f) Drainage changes that reduce the amount of drainage entering the CRZ; and
   g) Maintain adequate irrigation during construction.
4. The following restrictions apply during construction near the CRZ:
   a) All trees shall be protected by a fence, frame, or box constructed around the drip line of the preserved tree.
   b) A minimum of three inches of mulch or compost shall be spread beneath the drip line of the tree but must be kept four inches from the trunk.
   c) No person shall excavate any ditches, tunnels or trenches, place any paving material or place any drive or parking area within the drip line of any required tree without prior written approval of the Community Development Director at the time of Site Plan approval.
   d) No person shall attach any rope, wire, nails, advertising posters, or other contrivance to any required tree.

**Figure 38-7-2. Example Illustration of Critical Root Zone and Drip Line**




## F. Landscape Plan

1. A Landscape Plan indicating the following shall be submitted in conjunction with the application for the building permit for Community Development Director approval:
   a) Type, size, and location of landscaping;

b) A summary of the tree protection methods to be utilized for any Protected Tree or other tree required by this section;

c) Existing and planned driveways and streets with associated clear sight lines;

d) Topography; and

e) An irrigation plan showing the type and size of pipes and heads;

2. All plans shall be at a scale of one inch equals 10 feet or one inch equals 20 feet.
3. The Landscape Plan shall include the following statements:
   a) "The owner is responsible for all landscaping maintenance, including the repair or replacement of any required landscaping."
   b) "An irrigation system will be designed, installed, and functional prior to the approval of the Certificate of Occupancy" (unless the requirement for an irrigation system is specifically waived by the City).
4. The Landscape Plan may include a Tree Mitigation Plan, if applicable (see **Sec. 38-6.E.2**).

# Sec. 38-8. Fencing, Screening, and Buffering

## A. Purpose

The purpose of this section is to establish when fencing, screening, or buffering is required to promote land use compatibility and a positive aesthetic appearance. Additionally, this section provides regulations related to the height, placement, and other considerations for both required and non-required fencing, screening, and buffering.

## B. Applicability

1. The regulations included herein apply to all changes in occupancy or new development or expansions greater than 10 percent of the building footprint.
2. Screening must be installed prior to the issuance of a Certificate of Occupancy. All required fencing, screening, or buffering devices shall be permanently and continually maintained in a neat and orderly manner as a condition of use. The Certificate of Occupancy may be revoked for failure to adequately maintain such device.

## C. General Regulations

1. Placement
   a) No fence, screen, buffer, or any other object may be placed within the Clear Sight Triangle. See **Sec. 38-2.H. Clear Sight Triangle** for more information.
   b) No wall or fence shall be permitted in a public right-of-way or easement, unless an encroachment agreement is obtained and approved by the City's right-of-way coordinator.
      i) If written approval of the governing agency, affected utility or individuals is obtained, a wall or fence may be placed on an easement.
2. Materials and Appearance
   a) Materials shall consist of one or more of the following materials (see **Figure 38-8-1**), unless otherwise stated:
      i) Brick masonry, stone masonry, concrete block, or other architectural masonry finish; or
      ii) Tubular steel (primed and painted) or wrought iron fence with masonry columns spaced a maximum of 20 feet on center with structural supports spaced every 10 feet, and with sufficient evergreen landscaping to create a solid screening effect; or
      iii) Living plant screens (Evergreen shrubs with a minimum of three feet in height at the time of planting) that will not be detrimental to adjacent property and will provide sufficient visual screening based on the proposed location and characteristics of the project; or

**Figure 38-8-1. Examples of Acceptable Screening Materials**







iv) Alternate equivalent screening that provides an exceptional screening aesthetic, meets sound structural practices and engineering design criteria, meeting the intent and function of this Section at the discretion of the Community Development Director.

b) All required screening devices must be equally finished on both sides.

c) All openings in the surface for passage shall be equipped with gates equal in height and screening characteristics specified below, but need not be of the same material as the main fence or wall.

d) Where a screening device is constructed, placed or planted on uneven terrain, there shall be no gap under the device, and the device must be composed of the same material throughout.

3. Common Walls or Fences

a) A Common Wall or Common Fence shall not be constructed or structurally altered in any manner without the written consent of adjacent property owners who share or will share ownership of the wall or fence.

b) Written consent must be submitted at the time of request for a building permit.

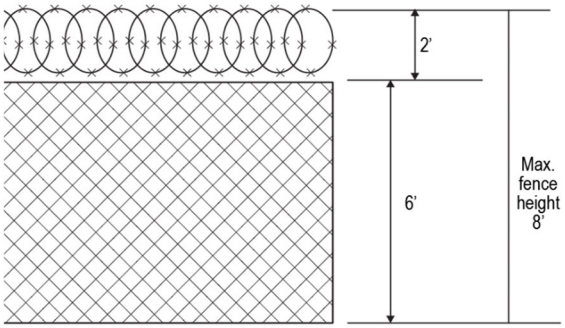
4. Retaining Walls

Retaining wall requirements are found in the Technical Manual. The proposed retaining wall design shall be submitted by the property owner/applicant to the Community Development Director and Public Works Director for approval consideration.

5. Barbed Wire and Other Similar Types of Containment Wire

a) Barbed wire and other similar types of containment wire (e.g., horse wire, “no climb” wire, and access-prohibiting wire) is permitted only when located at least six feet above the highest adjacent ground surface and will be included in the overall measurement of the fence or wall (see **Figure 38-8-2**). Such fences shall not exceed a maximum of eight feet in height.

**Figure 38-8-2. Barbed Wire**




b) Barbed wire and other similar types of containment wire are permitted only in the following locations:

i) In any district in conjunction with a commercial agricultural use, equestrian use, utility substation, detention facility use, or use located on airport property;

ii) CR, Commercial/Retail District (Rural, Suburban, Urban);

iii) LI, Light Industrial District (Rural, Suburban, Urban); or

iv) HI, Heavy Industrial District (Rural, Suburban, Urban).

c) Barbed wire and other similar types of containment wire shall not be permitted in the required front yard of any property, except those listed in **i) above**.

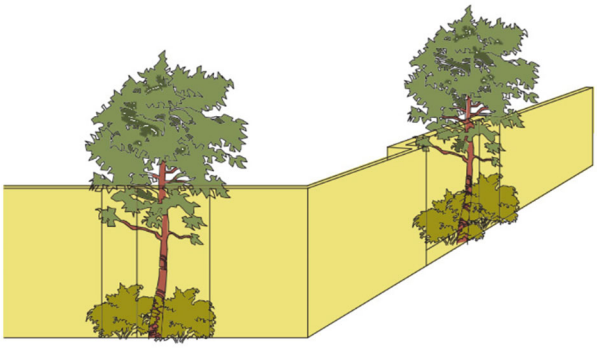
6. Chain-Link Fencing

Chain-link fencing shall be prohibited in front of the building face or on property lines adjacent to roadways with a Collector Street designation or higher.

7. Street-Facing Screening Wall Design

   Walls or fences 50 feet in length or longer along public streets must include features to avoid the appearance of blank walls facing the street. These features may include, but are not limited to, changes in depth, changes in texture or masonry patterns, columns, artwork, and/or landscaping shall be employed along the periphery to avoid the monotony of a large, blank surface.

**Figure 38-8-3. Screening Wall Design Example**



## D. Required Buffer Yards

1. Buffer Yards are required between differing district types as indicated in **Figure 38-8-4**.

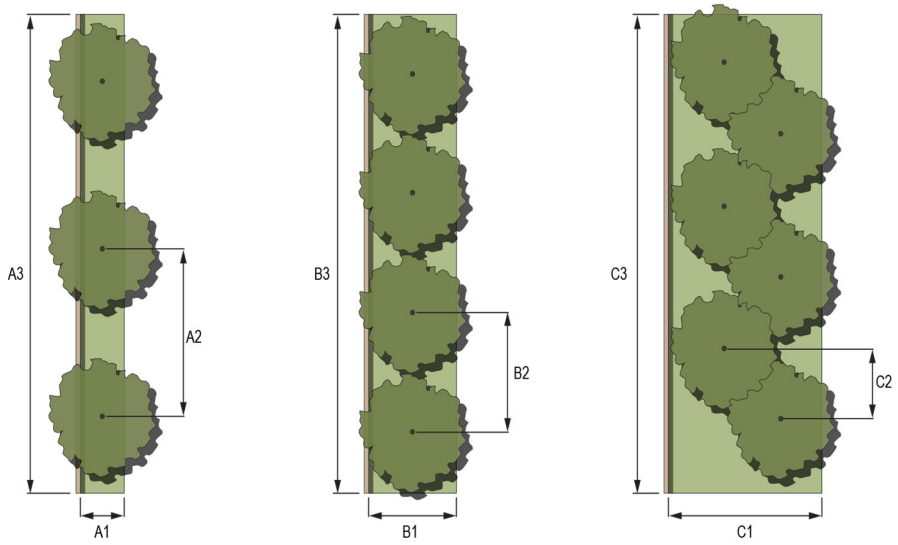
   a) Buffer Yards are not required when the sites are separated by a public roadway.

2. Buffer Yards shall be placed along the shared lot line on the property of the subject property district (according to **Figure 38-8-4**), with the wall along the property line. The property owner in the more intensive district is responsible for installing and maintaining the screening.

3. Buffer Yards may include screening walls, landscaping, drainage facilities, green infrastructure and low-impact development elements, walls and fences, but not parking or any permanent structures taller than the screening wall height.

4. The Community Development Director may modify or reduce the requirements within this **Sec. 38-8.D. Required Buffer Yards** to authorize an alternative configuration of buffering and/or other techniques that would result in an equivalent or improved appearance and compatibility with adjacent existing and future development.

**Figure 38-8-4. Required Compatibility Screen Type**




Type A
A1 = 10 ft deep buffer
A2 = 35 ft on center tree spacing
A3 = 6 ft tall masonry wall along property line

Type B
B1 = 20 ft deep buffer
B2 = 25 ft on center tree spacing
B3 = 6 ft tall masonry wall along property line

Type C
C1 = 35 ft deep buffer
C2 = 15 ft on center tree spacing
C3 = 6 ft tall masonry wall along property line

| | Adjacent Zoning District | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| **Subject Property District (District below required to install buffer)** | **NH-1 District** | **NH-2 District** | **NH-3 District** | **CR District** | **LI District** | **HI District** | **OS-1 District** | **OS-2 District** |
| NH-1 District | - | - | - | - | - | - | - | - |
| NH-2 District | - | - | - | - | - | - | - | - |
| NH-3 District | Type A | - | - | - | - | - | - | - |
| CR District | Type B | Type A | - | - | - | - | Type B | - |
| LI District | Type C | Type B | Type A | Type A | - | - | Type B | - |
| HI District | Type C | Type C | Type B | Type A | Type A | - | Type C | - |
| OS-1 District | - | - | - | - | - | - | - | - |
| OS-2 District | Type C | Type C | Type B | Type A | Type A | - | Type C | - |

## E. Required Screening

All development (excluding residential development with four or fewer units) shall comply with the following screening standards.

1. Dumpster/Waste Container Areas

   Dumpster enclosures shall be constructed of non-combustible screening material and shall be compatible in terms of color, texture, and scale that are used in the main building with which the dumpster enclosure is associated. Acceptable screening materials include rock, brick, and minimum twenty (20) gauge steel with a maximum one-quarter (1/4) inch gap between panels and one-quarter (1/4) inch in diameter holes. Dumpsters shall be screened with opaque to semi-opaque material on three sides and a gate (for easy access) on the fourth side. The screening and gate must be a minimum of twelve inches higher than the lid of the open container/dumpster. The dumpster enclosure shall be permitted a maximum two (2) inch gap from the bottom of the screening to grade to allow for the cleaning.

**Figure 38-8-5. Example of a Screened Dumpster**



2. Dumpsters are required for all commercial development.

   a. Exceptions:

      i. An existing developed lot that does not meet the City of Las Cruces Utility Standards to include dumpster and enclosure.

      ii. Alternatives for a dumpster may be approved by the City of Las Cruces Utility Department.

~~2.~~3. Mechanical/Utility Equipment

a) Mechanical/utility equipment must be screened from view from all angles using landscaping or walls in a manner that conceals the equipment. Such screening must remain consistent with the landscaping and architectural character (especially in terms of color, physical style, and scale). A screening wall shall be at least six feet in height and no more than one foot taller than needed to screen the equipment, as determined by the Community Development Director.

b) When located on a rooftop or otherwise attached to the building, mechanical/utility equipment shall be screened from view through the use of building design elements such as varied roof height, parapets, etc. In instances where adjacent rights-of-way are significantly higher in elevation to adjacent properties, rooftop equipment should be screened to the best extent possible. When the chosen architectural style selected does not lend itself to using these techniques, such equipment must be shielded from view by an opaque screen that is treated in a manner that most accurately matches the look, design, and texture of the building to which it is attached.

**Figure 38-8-6. Example of Screened Ground-Mounted Equipment**



c) Exterior mechanical/utility equipment mounted on building facades shall be prohibited unless used as an integrated architectural design feature and painted in a color that blends in with their visual

background and/or building to which they are attached.

~~3.~~4. Outside Storage

Any outside areas containing storage materials, whether directly for sale or otherwise, shall, at minimum, be fully enclosed on four sides with a masonry wall between 6 and 8 feet in height, (or taller if needed to be fully sight-obscuring), and must be set back at least as far as the main building's front facade. Outside storage screening walls must be compatible with the architectural character of the development, especially in terms of color, texture, physical style, and scale.

a) Screening of outside storage is not required in the HI, Heavy Industrial District (Rural, Suburban, Urban), unless the property is adjacent to another zoning district

b) The Community Development Director may modify these requirements based on intensity and amount of storage materials and the surrounding development/zoning (e.g., a plant nursery).

~~4.~~5. Parking Structures

Structured parking visible from a public right-of-way or from any NH District shall be screened by one of the following methods (or a combination thereof) with the exception of ingress and egress points:

a) Liner Buildings that surround the parking structure;

b) Solid walls meeting the material and articulation requirements of **Sec. 36-4.C. Nonresidential, Mixed-Use, and Multi-Family Development** that are aesthetically consistent with any associated buildings; or

c) Alternative screening methods approved by the Community Development Director, such as:

i) Landscaping that screens at least 50% of pedestrian-level parking garage facades immediately upon installation, with species selected to eventually provide a full 100% screening;

ii) Incorporation of Glazing techniques that mimic a typical building; or

iii) An artistic covering that fully screens the view of vehicles, which may include murals, sculptures, lighting, and other materials that create an interesting appearance consistent with the remainder of the development.

~~5.~~6. Auto Storage and Salvage Yards

a) Automotive storage and salvage yards shall be fully enclosed on four sides and fully sight-obscuring from public right-of-way and from view of any NH District.

b) Exceptions:

i) Automobiles currently for-sale or parked for less than a 24-hour period do not require screening.

ii) Screening of automotive storage and salvage yards is not required in the LI, Light Industrial District (Rural, Suburban, Urban) or the HI, Heavy Industrial District (Rural, Suburban, Urban), unless the property is adjacent to another zoning district.

~~6.~~7. Loading Docks/Bays and Service Areas

Loading and unloading zones must be screened from the street via landscaping, walls, fencing, etc. Screening shall be sight obscuring (semi-opaque at minimum) and a minimum of 6 feet in height.

## F. Other Required Fences

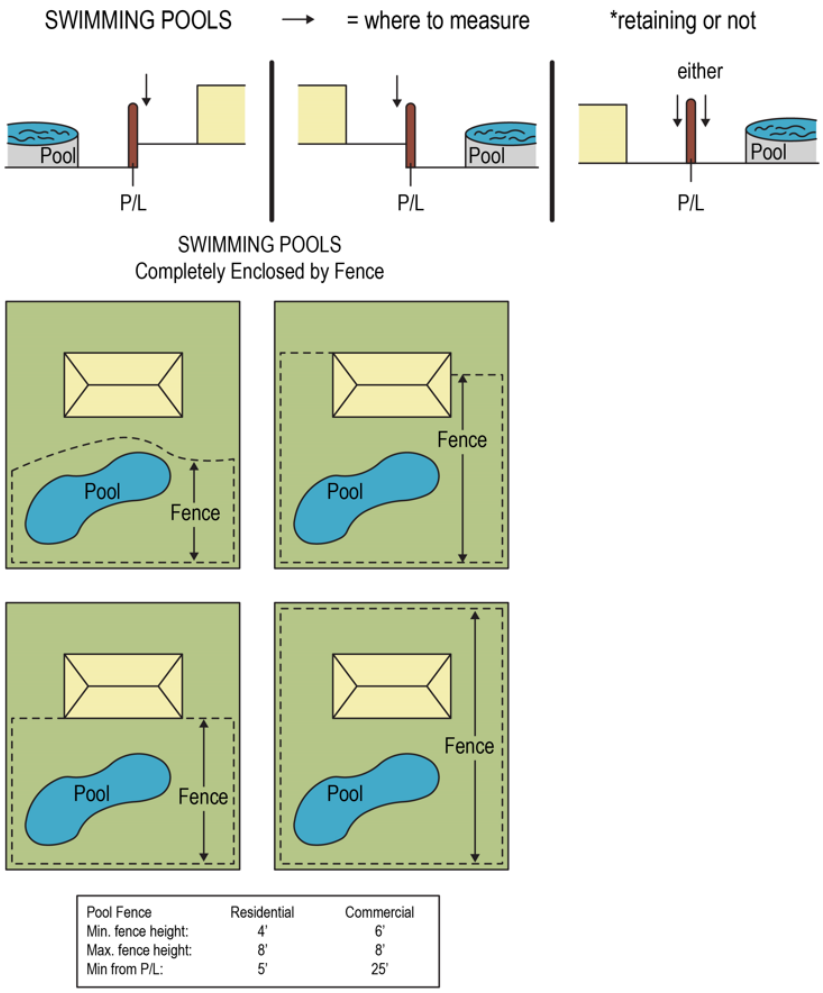
1. Swimming Pools, Whirlpools, Hot Tubs, and Other Similar Structures

   a) All water recreational structures, except commercial or public swimming pools, shall be completely enclosed by a wall or fence at least 4 feet in height. A minimum 4-foot fence or wall completely enclosing the entire yard or portion thereof where the structure is located will satisfy this requirement. All gates in fences shall be self-closing and equipped with self-latching devices.

   b) For commercial or public swimming pools, a protective fence or wall no less than 6 feet in height shall be provided which completely encloses the pool area, and the pool shall be no closer than 25 feet from any property line. All gates in fences shall be self-closing and equipped with self-latching devices.

   c) All other Building Code requirements for the construction of swimming pools and other similar structures shall be met.

**Figure 38-8-7. Swimming Pool Enclosures**




| Pool Fence | Residential | Commercial |
|---|---|---|
| Min. fence height: | 4' | 6' |
| Max. fence height: | 8' | 8' |
| Min from P/L: | 5' | 25' |

## G. Maximum Fence or Wall Height

The following requirements apply to all fences and walls, unless alternative screening is required by this **Sec. 38-8. Fencing, Screening, and Buffering**.

1. Method of Measurement

   The height measurement of a wall or fence shall be made on the side of the wall or fence at the lowest non-artificially raised grade level.

2. Maximum Fence or Wall Height for Residential Land Uses

   a) Fences or walls within the required front yard setback: 4-foot maximum height.

      i) Exception: Arches or entryways are permitted in required front yard setbacks in accordance with the following (see **Figure 38-8-9**):

         a. Maximum height of 8 feet permitted.

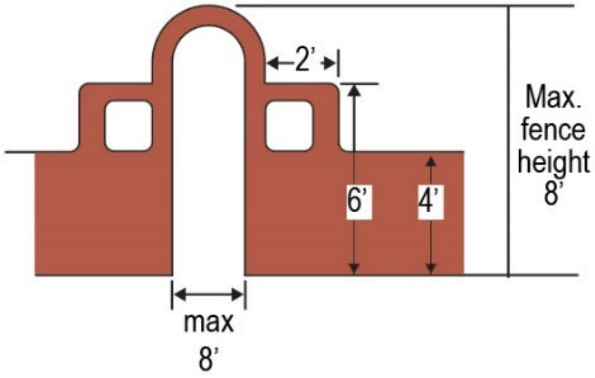
         b. Arch width shall not exceed 8 feet.

         c. A "step-down" design is permitted in conjunction with the arch. A 2-foot length on both sides of the arch is permitted at a height not to exceed 6 feet.

         d. Maximum of one arch or entryway is permitted in the required front yard.

         e. Arches or entryways are permitted behind the required front yard setback at any width, with a maximum height of 8 feet.

**Figure 38-8-8. Arches or Entryways in the Front Yard Setback**




   b) Fences or walls within the required rear and side yard setback: 8-foot maximum height.

   c) Fences or walls on corner lots: A maximum height of 8 feet shall be permitted on the secondary front yard, behind the primary required front yard setback. However, Clear Sight Triangle requirements shall be met (see **Sec. 38-2.H. Clear Sight Triangle**).

3. Maximum Height for Nonresidential Land Uses

   a) Fences or walls within the required front yard setback: 6-foot maximum height.

   b) Fences or walls within the rear and side yard setback: 8-foot maximum height.

   c) Fences or walls on corner lots: A maximum height of 8 feet shall be permitted on the secondary front yard, behind the primary required front yard setback. However, Clear Sight Triangle requirements shall be met (see **Sec. 38-2.H. Clear Sight Triangle**).

## Sec. 38-9. Outdoor Lighting

### A. Purpose

The purpose of this section is to provide regulations for outdoor lighting that will:

1. Permit reasonable uses of outdoor lighting for nighttime safety, utility, security, productivity, enjoyment, and commerce.
2. Be useful, targeted, low-level, and controlled, minimizing adverse offsite impacts including light trespass, and obtrusive light.
3. Curtail light pollution and improve the nighttime environment.
4. Help protect the natural environment and wildlife from the adverse effects of night lighting through the use of warm-colored lighting.
5. Conserve energy and resources to the greatest extent possible.

~~6. To promote safe lighting for pedestrian and vehicular traffic.~~

### B. Applicability

1. Except as described below, all outdoor lighting shall comply with these requirements and the City's Traffic Signal and Street Lightings Approved Products List. This applies to any lighting device located exterior to a structure or that illuminates areas exterior to a structure, whether permanently or temporarily installed, or any other lighting, whether attached to structures, poles, the earth, or any other location, including lighting installed by any third party. This includes, but is not limited to:
   a) New lighting
   b) Replacement lighting
   c) Search light(s)
   d) Spotlight(s)
   e) Flood light(s)
   f) Security lighting
   g) Architectural lighting
   h) Lighting for parks, parking lots, roadways
   i) Commercial/ Public Athletic facility lighting
   j) Building overhang and open canopy lighting
   k) Product display area lighting
   l) Landscape lighting
   m) Mobile vendor lighting
   n) Other lighting not in direct conflict with this section.
2. The following are not regulated by this section:
   a) Lighting within public right-of-way or easement for the principal purpose of illuminating streets or roads. No exemption shall apply to any lighting within the public right-of-way or easement when the purpose of the luminaire is to illuminate areas outside the public right-of-way or easement.
   b) Repairs to existing luminaires. This does not include retrofitting old lighting devices for new ones.

c) Temporary lighting for theatrical, television, performance areas and construction sites.

d) Underwater lighting in swimming pools and water features.

e) Temporary lighting and seasonal lighting provided that individual lamps are less than ten watts and 70 lumens.

f) Sign lighting (regulated by **Sec. 38-10. Signs**).

g) Open gas flames.

h) Emergency outdoor lighting.

i) The residential use of individual solar landscaping luminaires not exceeding property boundaries.

j) Construction lighting that does not exceed construction site boundaries.

k) -Private residential recreational facilities (e.g. basketball court, batting cage, tennis court, etc.)

~~j~~l) Any recognized historical structure/property.

3. The provisions of this section shall be considered to be the minimum requirements to meet the purpose expressed in **Sec. 38-9.A** of this section; however, nothing herein shall prohibit the Building Official from imposing greater requirements to ensure the promotion of health, safety, and welfare of the citizens of the City.
4. All outdoor lighting shall be installed in conformance with the provisions of this section, applicable electrical, building, and energy codes, applicable sections of the Las Cruces Municipal Code and manufacturer's instructions.

## C. Conflict

When the requirements herein conflict with specific lighting provisions of any of the following, only those specific provisions shall take precedence and all other requirements herein shall remain in force:

~~1. Lighting specified or identified in a special lighting permit.~~

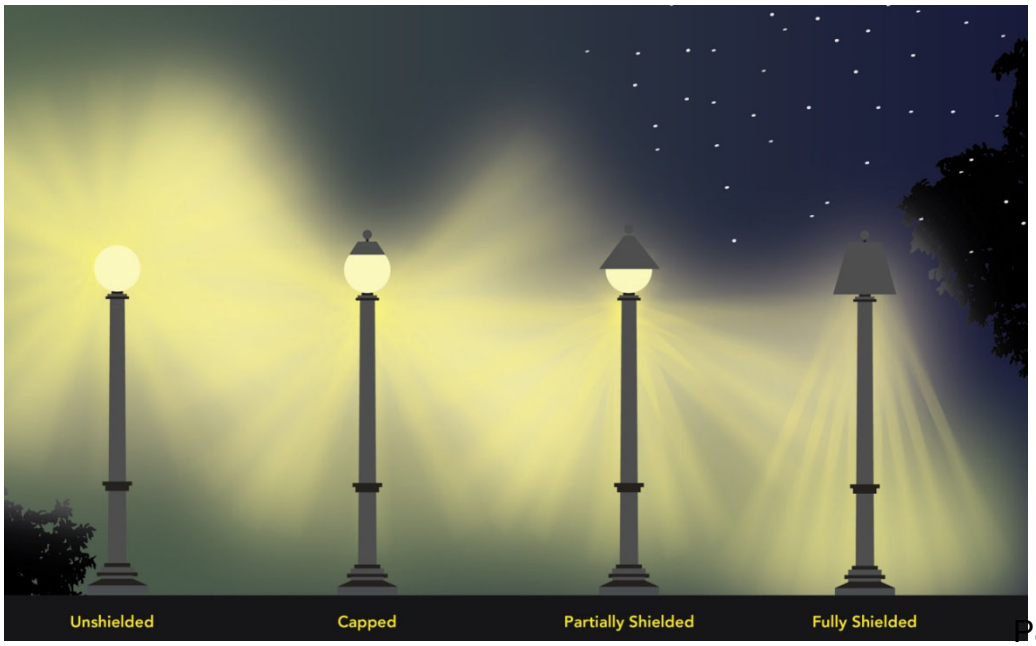
~~2.~~1. Lighting required by federal or state laws or regulations.

~~3.~~2. When proposed, the conflicting regulation shall be submitted at the time of permit submittal.

## D. General Requirements

All outdoor luminaries not specifically exempted above shall be fully shielded. Fully shielded fixtures encase the light source to prevent any light from escaping upwards or sideways. Only light directed downwards is allowed, ensuring that the illumination is limited to the target area.

**Figure 38-9-1. Illustration of Fully Shielded Lighting**



## E. Lighting Zones

1. Lighting zones are established to align with adopted zoning districts~~, as shown in **Figure 38-9-2**~~. The lighting zone shall determine the limitations for commercial lighting as specified in this section. ~~The lighting zones shall be as follows:~~

2. When two or more zoning districts are shown on a property, the more restrictive shall apply unless approved by the Community Development Director.

~~a) Lighting zone 0 (LZ-0). Areas where the natural environment will be seriously and adversely affected by lighting. Impacts include disturbing the biological cycles of flora and fauna and/or detracting from human enjoyment and appreciation of the natural environment. Human activity is subordinate in importance to nature. The vision of human residents and users is adapted to the total darkness, and they expect to see little or no lighting. When not needed, lighting should be extinguished.~~

~~b) Lighting zone 1 (LZ-1). Rural residential and other developed areas containing national parks, state parks, and city parks.~~

~~c) Lighting zone 2 (LZ-2). Areas predominately consisting of residential zoning, neighborhood business districts, light industrial with limited nighttime use and residential mixed-use areas.~~

~~d) Lighting zone 3 (LZ-3). All areas not included in zones 0, 1, 2, or 4.~~

~~e) Lighting zone 4 (LZ-4). High-activity commercial districts in major metropolitan areas as designated by the Community Development Director.~~

~~2. All lighting in Lighting Zone 0 (LZ-0) and Lighting Zone 1 (LZ-1) shall use warm-colored lights that are 3000 Kelvin degrees or less to reduce the impact of outdoor lighting on wildlife and humans.~~

~~**Figure 38-9-2. Lighting Zones**~~

| ~~Zoning District~~ | ~~Lighting Zone~~ |
|---|---|
| ~~Zoning Districts~~ | |
| ~~NH-1, Neighborhood 1 District (Rural, Suburban, Urban)~~ | ~~LZ-1~~ |
| ~~NH-2, Neighborhood 2 District (Rural, Suburban, Urban)~~ | ~~LZ-2~~ |
| ~~NH-3, Neighborhood 3 District (Rural, Suburban, Urban)~~ | ~~LZ-2~~ |
| ~~CR, Commercial/Retail District (Rural, Suburban, Urban)~~ | ~~LZ-3~~ |
| ~~LI, Light Industrial District (Rural, Suburban, Urban)~~ | ~~LZ-3~~ |
| ~~HI, Heavy Industrial District (Rural, Suburban, Urban)~~ | ~~LZ-3~~ |
| ~~OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban)~~ | ~~LZ-0~~ |
| ~~OS-2, Open Space-Drainage District (Rural, Suburban, Urban)~~ | ~~LZ-1~~ |
| ~~Overlay Zoning Districts~~ | |
| ~~TCO, Town Center Overlay District~~ | ~~LZ-3~~ |
| ~~MXCO, Mixed Use Corridor Overlay District~~ | ~~LZ-3~~ |
| ~~AOD, Las Cruces International Airport Operations Overlay District~~ | ~~LZ-4~~ |
| ~~Special Zoning Districts~~ | |
| ~~UD, University District Overlay District~~ | ~~LZ-3~~ |

| | |
|---|---|
| ~~DDC, Downtown Development Code~~ | ~~LZ-3~~ |
| ~~HP, Historic Preservation~~ | ~~LZ-2~~ |
| ~~Planned Unit Developments (PUDs)~~ | ~~Determined by PUD~~ |

## F. Residential Lighting

1. Applicability

   The requirements herein apply to residential properties with one to four units per lot.

   a) Lighting fixtures shall be installed in a manner that restricts light from glaring into adjacent properties.

~~2. Exceptions~~

~~a) Shielded directional luminaires not exceeding 1,800 luminaire lumens; provided such luminaires shall be shielded to prevent glare and light trespass beyond the property boundary, aimed away from adjacent properties, and the center beam of each lamp shall be aimed at least 65 degrees below horizontal.~~

~~b) Any other unshielded luminaire not exceeding 450 luminaire lumens.~~

~~c) Security lights if they comply with all of the following:~~

~~i) One or two flood lamps or spot lamps of less than 1,800 lumens each per luminaire.~~

~~ii) The center of the beam of each lamp aimed at least 65 degrees below horizontal and away from adjacent properties when the source is visible from any adjacent property.~~

~~iii) Are controlled by a motion-sensor switch.~~

~~iv) Do not remain on longer than 15 minutes after activation.~~

## G. All Other Lighting

1. Applicability

   The requirements herein apply to all properties except residential properties with one to four units per lot.

2. Total Initial Lumens Per Property

   a) The total installed initial lamp lumens of all outdoor lighting systems on the property shall not exceed the total site lumen limit. The total property lumen limit shall be determined using ~~either the parking space method (**Figure 38-9-3**) or~~ the ~~hardscape~~ impervious area method (**Figure 38-9-2**4). ~~Only one method shall be used per permit application, and for properties with existing lighting, existing lighting shall be included in the calculation of total installed lumens.~~

   ~~b) The total installed initial lamp lumens is calculated as the sum of the initial lamp lumens for all luminaires tested with relative photometry and 140 percent of initial lamp lumens for all luminaires tested with absolute photometry.~~

~~**Figure 38-9-3. Allowed Total Initial Lumens per Property for Commercial Outdoor Lighting, per Parking Space Method**~~

~~Note: May only be applied to properties up to ten parking spaces (including handicapped accessible spaces).~~

| ~~LZ-0~~ | ~~LZ-1~~ | ~~LZ-2~~ | ~~LZ-3~~ | ~~LZ-4~~ |
|---|---|---|---|---|
| ~~500 lms/space~~ | ~~700 lms/space~~ | ~~900 lms/space~~ | ~~1,200 lms/space~~ | ~~1,500 lms/space~~ |

3. Limits to Off-Site Impacts

   All luminaires, unless noted otherwise, shall be rated and installed according to **Figure 38-9-53**.

4. Adjustable Mmounting Ddevices Pprohibited

4. Luminaires equipped with adjustable mounting devices permitting alteration of luminaire aiming in the field shall not be permitted, except as needed to conform with **Sec. 38-9.G.8** and **Sec. 38-9.H**.

5. Automatic Daylight Switching Requirements

   a) Controls shall be provided that automatically extinguish all outdoor lighting when sufficient daylight is available using a control device or system such as a photoelectric switch, astronomic time switch or equivalent functions from a programmable lighting controller, building automation system or lighting energy management system. All time switches, programmable lighting controller, building automation system or lighting energy management system shall be capable of retaining programming and the time setting during loss of power for a period of at least ten hours.

   b) Automatic lighting controls are not required for the following:

      i) Lighting under parking canopies.

      ii) Lighting for tunnels, parking garages, garage entrances, and similar conditions.

      iii) Approved emergency outdoor lighting.

**Figure 38-9-42. Allowed Total Initial Lumens per Property for Commercial Outdoor Lighting, HardscapeImpervious Area Method**

Note: May be used for any project. When lighting intersections of property drives and public streets or road, a total of 600 square feet for each intersection may be added to the actual property hardscape impervious area to provide for intersection lighting.

| LZ 0 | LZ 1 | LZ 2 | LZ 3 | LZ 4 |
|---|---|---|---|---|
| 1.5 lumens per sqft of hardscape | 2.5 lumens per sqft of hardscape | 4.0 lumens per sqft of hardscape | 8.0 lumens per sqft of hardscape | 12.0 lumens per sqft of hardscape |

| OS-1, OS-2, H | NH-1 | NH-2, NH-3, HP, SMO, ADO | CR, LI, HI, TCO, MXCO, UD, DDC | AOD, LCIIP | PUD |
|---|---|---|---|---|---|
| 1.5 lms/sq.ft. | 2.5 lms/sq.ft | 4.0 lms/sq.ft. | 8.0 lms/sq.ft. | 12 lms.sq.ft. | DESIGNATION |

**Figure 38-9-53. Maximum Allowable Backlight, Uplight, and Glare (BUG) Ratings**

Note: A luminaire may be used if it is rated for the lighting zone of the property or lower in number for all ratings B, U and G. Luminaires must be installed according to its manufacturer's specifications. A luminaire certified as a full cutoff luminaire shall be deemed as meeting the uplight requirement.

| | Zones | | | | |
|---|---|---|---|---|---|
| Allowed Backlight Rating | LZ 0 | LZ 1 | LZ 2 | LZ 3 | LZ 4 |
| Greater than 2 mounting heights from property line | B1 | B3 | B4 | B5 | B5 |
| 1 to 2 mounting heights from property line and properly oriented [1] | B1 | B2 | B3 | B4 | B4 |
| 0.5 to 1 mounting heights from property line and properly oriented [1] | B0 | B1 | B2 | B3 | B3 |
| Less than 0.5 mounting height to property line adjacent to a street and properly oriented [3] | B0 | B0 | B1 | B2 | B3 |
| Less than 0.5 mounting height to property line and properly oriented [1] | B0 | B0 | B0 | B1 | B2 |
| Allowed Uplight Rating | U0 | U0 | U1 | U2 | U3 |
| Allowed % light emission above 90° for street or area lighting. | 0% | 0% | 0% | 0% | 0% |
| Allowed Glare Rating [2] | G0 | G1 | G2 | G3 | G4 |

| | | | | | |
|---|---|---|---|---|---|
| ~~Building Mounted Luminaires only [3] Greater than 2 mounting heights to any property line~~ | ~~G0~~ | ~~G1~~ | ~~G2~~ | ~~G3~~ | ~~G4~~ |
| ~~Building Mounted Luminaires only [3] 1 to 2 mounting heights to any property line~~ | ~~G0~~ | ~~G0~~ | ~~G1~~ | ~~G1~~ | ~~G2~~ |
| ~~Building Mounted Luminaires only [3] 0.5 to 1 mounting heights of any property line~~ | ~~G0~~ | ~~G0~~ | ~~G0~~ | ~~G1~~ | ~~G1~~ |
| ~~Building Mounted Luminaires only [3] Less than 0.5 mounting heights of any property line~~ | ~~G0~~ | ~~G0~~ | ~~G0~~ | ~~G0~~ | ~~G1~~ |

| MAXIMUM BUG RATING | FEET FROM PROPERTY LINE | | |
|---|---|---|---|
| ZONING DISTRICT | 0 TO 30 FEET | 30+ TO 60 FEET | 60+ FEET |
| NH-1 | B0-U0-G1 | B2-U0-G1 | B3-U0-G1 |
| NH-2, NH-3, ADO, SMO | B0-U1-G0 | B3-U1-G1 | B4-U1-G2 |
| CR, LI, HI, TCO, MXCO, UD, DDC | B1-U2-G0 | B4-U2-G1 | B5-U2-G3 |
| OS-1, OS-2, H | B0-U0-G0 | B0-U0-G0 | B0-U0-G0 |
| AOD, LCIIP | B2-U3-G1 | B4-U3-G2 | B5-U3-G4 |
| NOTES | NOTES 1 & 2 FOR THIS COLUMN | NOTES 1 & 3 FOR THIS COLUMN | NOTES 1 & 3 FOR THIS COLUMN |

[1] The luminaire must be mounted with backlight (without shields) towards the property line.

[2] For property lines that abut public walkways, bikeways, plazas, and parking lots, the property line may be considered to be five feet beyond the actual property line for purpose of determining compliance with this section. For property lines that abut public roadways and public transit corridors, the property line may be considered to be the centerline of the public roadway or public transit corridor for the purpose of determining compliance with this section. NOTE: This adjustment is relative to this figure only and shall not be used to increase the lighting area of the site.

[3] Building-mounted luminaires that cannot be mounted with their backlight (without shields) to the property line shall meet the allowed glare rating for all luminaires. Light from a building-mounted luminaire must not exceed the B rating in the direction of the property line.

6. Automatic Lighting Reduction Requirements
   a) Total outdoor lighting lumens shall be reduced (by at least 30 percent) or extinguished at 11:00 p.m. or 30 minutes after the close of business, whichever is later.
   b) Lighting reductions are not required for any of the following:
      i) Approved emergency outdoor lighting;
      ii) Code required lighting for steps, stairs, walkways, and building entrances;
      iii) When, in the opinion of the Building Official, lighting levels must be maintained;
      iv) Motion-activated lighting; or
      ~~v) Lighting governed by a Special Use Permit in which times of operation are specifically identified; or~~
   ~~vi)~~v) Businesses that operate on a 24-hour basis.
7. Emergency Outdoor Lighting
   a) The lumens allowed for approved emergency outdoor lighting shall be allowed in addition to the total property lumen limit for that property.
   b) Approved emergency outdoor lighting shall not be subject to the limits to off-site impacts for that property.
   c) Approved emergency outdoor lighting shall not be subject to the automatic lighting reduction requirements. Approved emergency outdoor lighting shall not be subject to the automatic switching requirements.

8. Architectural Illumination

   a) A separate allowance of lumens for architectural lighting will be allowed in the amount of ten percent of the calculated installed property lumens.

   ~~b) Luminaires that are not mounted on the building shall be within 12 inches of the ground and 10 feet of the building.~~

   ~~c)~~b) The luminaires used for architectural lighting shall be designed, fitted and aimed to shield the lamp and its reflective surfaces from off-site view and to place the light output onto and not beyond the building.

## H. Flag Lighting

1. Flag lighting sources shall not exceed 7,000 lumens per flagpole.
2. The light source ~~shall have a beam spread no greater than necessary to illuminate the flag~~ and shall be shielded so the light source (lamp and reflector) is not visible at normal viewing angles.

## I. Alternate Materials and Methods of Construction, Installation, and Operation

The provisions of this code are not intended to prevent the use of any design, materials, or method of installation or operation not specifically prescribed by this section, provided any such alternate has been approved. The Community Development Director may approve any proposed alternative provided they find that it has been designed by a registered design professional and is supported by calculations showing that the design submitted meets the intent of the Code. This section shall not have the effect to waive any requirements of this Code.

~~The provisions of this code are not intended to prevent the use of any design, materials, or method of installation or operation not specifically prescribed by this section, provided any such alternate has been approved. The Community Development Director may approve any such proposed alternate provided they find that it:~~

~~1. Provides at least approximate equivalence to the applicable specific requirements of this Code; and~~

~~2. Is otherwise satisfactory or complies with the intent of this Code; and~~

~~3. Has been designed or approved by a registered design professional and is supported by calculations showing that the design submitted meets the intent of the Code. This section shall not have the effect of waiving any requirements of this Code.~~

## J. ~~Special Lighting Permit~~ Complex and Non-conforming Use (For Commercial and Residential Lighting)

1. High intensity and special purpose lighting. The following lighting systems are prohibited unless approved by the Community Development Director. ~~from being installed or used except by special lighting permit:~~

   a) Temporary lighting in which any single luminaire exceeds 20,000 lumens or the total lighting load exceeds 160,000 lumens.

   b) Aerial lasers.

   c) Searchlights.

   d) Other very intense lighting defined as having a light source exceeding 20,000 lumens or an intensity in any direction of more than 2,000,000 candelas.

2. Complex and nonconforming uses. ~~Upon special lighting permit issued by the Building Official, l~~Lighting not complying with the technical requirements of this section but consistent with its intent may be installed for complex sites or uses or special uses including but not limited to the following applications:

   a) Sports facilities, including but not limited to unconditioned rinks, open courts, fields, and stadiums;

   b) Construction lighting greater than 20,000 lumens or exceeds project boundaries;

c) Lighting for industrial sites having special requirements, such as petrochemical manufacturing or storage, shipping piers, etc.;

d) Parking structures;

e) Urban parks;

f) (Decorative and architectural lighting of bridges, public monuments, and public buildings;

g) Theme and amusement parks; or

~~h)Historic buildings; or~~

~~i)~~h)Projected images and movies, including drive-in theaters.

3. These~~o obtain such a permit, applicants shall demonstrate that the~~ proposed lighting installations shall demonstrate that they have sustained:

a) ~~Has sustained e~~Every reasonable effort to mitigate the effects of light on the environment and surrounding properties, supported by a signed statement describing the mitigation measures. Such statement shall be accompanied by the information required for a commercial plan submittal.

~~b) Employs lighting controls to reduce lighting at a project specific curfew ("curfew") time that will be established in the permit.~~

4. The Community Development Director shall review each such application. A special lighting permit may be granted if, upon review, the Community Development Director believes that the proposed lighting will not create unwarranted glare, sky glow, or light trespass.

## K. Plan Submittals

1. Plan submittals for projects involving outdoor lighting shall contain all the information required by the City of Las Cruces Building Code (Chapter 30, Las Cruces Municipal Code).

2. In addition, evidence of compliance with the requirements of this section shall be provided by including an outdoor lighting site plan (labeled as sheet OLP in the submitted plan set) consisting of the following:

a) ~~A note indicating which method for determining total site lumens is being used and show the C~~calculations showing total site lumens.

b) Locations of all proposed outdoor luminaires (including site, parking lot, parking canopies, walkways/sidewalks, building-mounted, under-canopies, architectural, landscape, flagpole, external signage lighting, etc.). This includes all normal and emergency outdoor lighting. Lumens shall be listed for all ~~new~~ luminaires; BUG ratings shall be provided for all ~~existing~~ luminaires.

c) A fixture schedule that includes all luminaires shown on the plan(s). The schedule shall include, at a minimum:

i) Fixture type/mark;

ii) manufacturer; catalog/part number;

iii) lamp quantity per luminaire;

iv) lamp type;

v) lamp initial lumens for all new luminaires and BUG rating for each existing luminaire;

vi) mounting height of the luminaire above finished grade, description/comments; and

~~c)~~vii) maximum BUG rating for the location.

d) City ordinance requires most sites to reduce the outdoor illumination by a minimum of at least 30 percent or extinguished at 11:00 p.m. or 30 minutes after the close of business. The lighting plans shall therefore be prepared in a fashion that clearly identifies which fixtures are to remain on all night for security lighting

purposes. This identification can be accomplished via fixture shading, keynotes, or the creation of a separate after-hours lighting/photometric plan designated OLS in the plan set.

e) A note shall be placed on the lighting plan which identifies the time(s) at which the site will enter security-lighting-only mode, and a general description of the device(s) that will automatically be controlling the lighting.

f) A pole detail for each type of pole light shall be included in the submittal. This detail shall include, at a minimum: Mounting height of the luminaire(s) as measured from the fixture lens to the finished grade of the parking lot, the fixture type of the luminaires mounted on the pole.

g) A complete date for the current plan, and complete dates for all prior versions of the plans that were submitted to the City.

h) A contact name and phone number for the preparer of the lighting submittal.

i) All components shall be on one sheet. Failure to comply will result in plans being returned and not reviewed.

3. Additional information may be required by the Building Official or the Community Development Department in order to determine compliance with this section.

4. A description of luminaires, sufficient to demonstrate compliance with this section, including lamps, poles or other supports and shielding devices, provided as catalogue illustrations from the manufacturer, and photometric data, such as that furnished by the manufacturer, showing the downward angle of light emission shall be available on the jobsite with the approved set of plans.

## L. Legal Nonconforming Lighting

1. Lighting installed prior to the effective date of this section shall comply with the following:

a) Any new luminaire or new outdoor lighting shall meet the requirements of this section for new outdoor lighting.

b) A legally installed luminaire existing as of the date of this section is exempt from the provisions of this section except that any replacement lighting must comply with the provisions of this section for new outdoor lighting.

c) For the purposes of this section, a legally installed luminaire means a fixture that was permitted and installed in accordance with the adopted codes and regulations applicable at the time of installation but must be included in plan submittal for new lighting proposed to be installed.

2. Resumption of use after abandonment. If a property with nonconforming lighting is abandoned or remains vacant for a period of 12 months or more, then all outdoor lighting on the property shall be brought into compliance with the provisions of this section for new outdoor lighting before any further use of the property occurs or before a certificate of completion, certificate of occupancy, or business registration is issued.

3. Repairs, Alterations, Change of Occupancy, Additions, Historic Buildings, and Relocated Buildings

a) Repairs

Relamping or replacement of components of a legally installed luminaire existing as of the date of this section (including capacitor, ballast or photocell) shall be exempt from the provisions of this section. ~~Any other reconstruction or renewal of any part of a legally installed luminaire existing as of the date of this section for the purpose of its ongoing operation is not considered a repair and for the purposes of this section the luminaire shall be treated as if new outdoor lighting. Note that retrofitting a luminaire with new lamp technology or ballast technology is not considered a repair and for the purposes of this section the luminaire shall be treated as if new outdoor lighting.~~

b) Minor Modifications, Additions, or New Lighting Fixtures for Nonresidential and Multi-Family Dwellings

For non-residential and multi-family dwellings, all additions, modifications, or replacement of ~~one fixture within a six-month period or~~ more than 25 percent of outdoor lighting fixtures existing as of the effective date

of this Code shall require the submission of a complete inventory and site plan detailing all existing and any proposed new outdoor lighting.

c) Change of Occupancy

Where the use in a space intensifies ~~changes from one group of occupancies to another group of occupancies or changes from one division to another division in the same occupancy group (as defined in the International Building Code as adopted by the City of Las Cruces),~~ all outdoor lighting on the property shall be brought into compliance with the provisions of this section for new outdoor lighting before the change in use commences or before a certificate of completion, certificate of occupancy, or business registration is issued.

d) Additions

Where there is an extension or increase in floor area of 25~~%~~ percent or greater, additional dwelling units, number of stories, ~~height of a building or structure,~~ or parking spaces all outdoor lighting on the property shall be brought into compliance with the provisions of this section for new outdoor lighting before a certificate of completion, certificate of occupancy, or business registration is issued.

~~e) Historic Buildings~~

~~Where a historic building (as defined in this section) is unable to comply with the provisions of this section a special use permit shall be obtained before a certificate of completion, certificate of occupancy, or business registration is issued.~~

~~f) Relocated Buildings~~

~~Where a building is relocated all outdoor lighting on the property where the building is relocated to shall be brought into compliance with the provisions of this section for new outdoor lighting before a certificate of completion, certificate of occupancy, or business registration is issued.~~

4. Nuisance Lighting

If a light is deemed to be a hazard to vehicular or pedestrian traffic, an immediate remediation shall be required.

5. Multiple-Tenant Commercial Properties

a) Outdoor lighting associated directly with a specific tenant shall be treated as single-tenant commercial property.

~~b) All outdoor lighting not specifically and directly associated with a single tenant shall be brought into compliance with the provisions of this section for new outdoor lighting within two years of the effective date of this section.~~

## Sec. 38-10.Signs

### A. Purpose

1. The purpose of this section is to permit signs that will not, by their size, location, or construction, endanger the public health and safety of individuals.
2. Furthermore, it is the purpose of this section to maintain property values and to create a more aesthetically pleasing community, through the preservation of the natural beauty and environment of the City.
3. This section regulates the time, place, and manner of display of signs. It is not the purpose of this section to regulate the specific content of any sign.

### B. Applicability

1. This section shall apply to all new or expanded signs within the City limits.
2. The following are not included within the scope of these regulations:
   a) Signs posted by the City or other governmental entity;
   b) Banners legally attached to City or other public utility poles;
   c) Signs four square feet or smaller for display in an NH zoning district for less than one week;
   d) Signs placed on the lot of a for-sale model home;
   e) Signs placed inside of vehicles that are currently available for sale;
   f) Signs placed inside the field fence of an athletic field or stadium;
   g) Seasonal decorations; and
   h) Signs ancillary to business operations smaller than 6 square feet. Examples of such types typically include hours of operation, open/closed signs, service entrance signs, or menu displays.
3. Signage for Planned Unit Developments (PUDs)
   a) PUDs shall follow the regulations of this **Sec. 38-10. Signs** as applicable to the PUD base district (or primary use as determined by the Community Development Director).
   b) Applicants who wish to propose alternative signage shall submit a sign plan detailing the proposed signage location, dimensions, materials, lighting, and other features. Such a plan shall be reviewed and approved in conjunction with the PUD application.
4. All signs shall conform to the structural design requirements set forth in the International Building Code and companion documents.

### C. Sign Permit Required

1. A sign permit is required for all new or expanded signs, unless otherwise stated.
   a) Exceptions. A sign permit is not required for the following:
      i) Normal maintenance, painting, repainting, or cleaning of a sign with no structural changes; or
      ii) Replacement of a sign face that does not increase the area of the sign face or add any additional illumination.
2. Each application for a sign permit shall be accompanied by plans and other pertinent information as necessary to clearly depict the site location, height, weight, size, material, method of erection, and construction of said sign.

## D. Prohibited Signs

1. Any sign not expressly permitted within this **Sec. 38-10. Signs** is prohibited.
2. The following sign types are specifically prohibited:
   a) Billboards
   b) Inflatable or balloon signs
   c) Portable signs (other than a Sidewalk Sign)
   d) Signs with parts that move or spin to attract attention (other than an Electronic Reader Board)
   e) Snipe or bandit signs
   f) Streamers and pennants
   g) Vehicular signs
3. Any sign erected on, attached to, or painted on retaining walls, fences, rocks, or natural features is prohibited. This prohibition shall not include signs located at the entryway to a subdivision or signs located at athletic fields.
4. Any sign illegally placed, constructed, or maintained is prohibited.

**Figure 38-10-1. Examples of Prohibited Signs**

**Billboard**




**Portable Sign**




**Inflatable or Balloon Sign**



**Snipe or Bandit Signs**




**Vehicular Sign**




**Moving Sign**



**Streamer or Pennant**



## E. Method of Sign Measurements

1. Setbacks

   Setbacks shall be measured in linear feet from property lines to the leading edge of the sign.

2. Sign Area

   a) Sign Area shall be calculated in square feet, and by means of the smallest square, circle, rectangle, or combination thereof that will encompass the sign face and any framing, trim, or molding, and the supporting structure (see **Figure 38-10-2**).

   b) All attachments to signs or sign structures (whether temporary or permanent) shall be included as part of the total sign area for the sign to which they are attached.

   c) The area of signs with more than one face is measured by determining the sign area of all sides that are visible from any one vantage point, except only one side of a sign shall be measured if the two sides are back-to-back or separated by an angle of 45 degrees or less. If the two sides are not of equal size, the larger side shall be measured.

   d) For three-dimensional objects, the sign area is the sum of the two adjacent faces of a cube encompassing the object (see **Figure 38-10-3**).

3. Sign Height

   Sign height shall be measured in linear feet. The overall height of a sign structure is measured from the lowest elevation of the ground abutting the base of the sign to the highest point of the sign structure (see **Figure 38-10-4**).

**Figure 38-10-2. Sign Area Calculation**




**Figure 38-10-3. 3D Object Area Calculation**

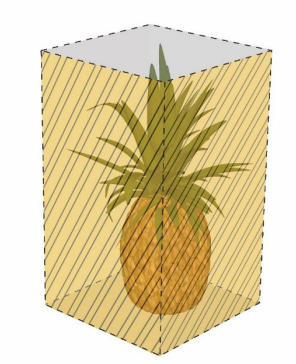


**Figure 38-10-4. Sign Height Calculation**



## F. Placement

1. No sign shall be permitted to violate the clear sight triangle as referenced in **Sec. 5-3.G. Clear Sight Triangle**.
2. No sign shall obstruct any door, stairway, fire escape or opening intended to provide ingress and egress for any building or structure.
3. Signs shall not be located in a manner that obscures or interferes with the effectiveness of any official sign, signal, or device. A sign shall not be placed at any location where it obstructs or interferes with the clear view of any traveler on any street.
4. Signs may only be placed in (e.g., bench signs, waste receptacle signs) or extend onto or over a public right-of-way or sidewalk when a specific exception is provided by the City Manager.
5. Any sign extending over an area intended for pedestrian use shall not be less than eight feet above the finished grade below it.
6. Any freestanding sign over 20 feet in height above grade or any sign extending above the public right-of-way shall require the seal of a Professional Engineer, indicating that the sign meets all best engineering practices and standards.
7. No permit for a sign that extends beyond private property onto a public street, public sidewalk, or public alley will constitute a permanent easement. Every such permit shall be revocable by the Community Development Director. The City shall not be liable for any damages to the owner because of such revocation.
8. No sign shall be placed or constructed on a property without permission from the property owner.

## G. Sign Types and Supplemental Standards

### Attached Signs

1. Awning or Canopy Sign

**Description**

A sign that is fastened to or painted on an awning or canopy.




**Supplemental Standards**

No Awning or Canopy Sign shall project into the right-of-way except when a building has a setback of less than five feet.

2. Projecting Sign

**Description**

A sign attached to a wall that projects from the building face for view from either side.




**Supplemental Standards**

A Projecting Sign may exceed the building height by up to 36 inches; however, no sign shall exceed the maximum building height of the zoning district.

Any sign projecting over the right-of-way shall not project more than eight feet into the right-of-way and shall meet the minimum clearance established in **Sec. 38-10.F.5** above. As noted in **Sec. 38-10.F.6**, signs projecting over the right-of-way require the seal of a professional engineer.

3. Roof-Mounted Sign

**Description**

Any sign that is attached to the roof of a building or structure.

**Supplemental Standards**

Signs shall be more than 24 inches in height; however, no sign shall exceed the maximum height of the zoning district.




4. Wall Sign

**Description**

Any sign affixed flush with or painted onto the wall of any building. This description does not include other instances of painted applications, such as murals, that have been recommended by the City Art Board.

**Supplemental Standards**

No Wall Sign may extend more than 12 inches in depth out from the wall to which it is attached. No Wall Sign may be extended above the roofline.




5. Window Sign

**Description**

Any sign displayed in or painted onto a window. This description does not include Ancillary Signs as described in **B.2.h)**.

**Supplemental Standards**

Permanent window signs may be substituted for wall signage with a corresponding reduction of wall signage.

A window sign does not include merchandise or models of products or services incorporated in a window display.



## Freestanding Signs

6. Menu Board Sign

**Description**

A sign located in the drive-through of a restaurant leading up to the drive-up window.




**Supplemental Standards**

The volume of the speaker shall not exceed ambient noise conditions as measured at the property line.

Any illumination must be discontinued at the close of business.

The design, materials, and finish of the sign shall match those of the building(s) on the same lot.

7. Monument Sign

**Description**

A Monument Sign is a freestanding sign constructed of masonry, metal, or similar weather-resistant materials with a concrete base that extends along the entire width of the sign.




**Supplemental Standards**

N/A

8. Pole Sign

**Description**

Any sign whose primary means of support is one or more poles set into a concrete footing, located at or below ground level.

**Supplemental Standards**

N/A




9. Sidewalk Sign

**Description**

A Sidewalk Sign is a moveable, self-supporting sign with a lightweight frame and base and an erasable or changeable surface. Sidewalk Signs are pedestrian-oriented and not intended to be read from passing vehicles.

**Supplemental Standards**

Sidewalk Signs may be placed on a public sidewalk if it does not reduce the clear area of the sidewalk to less than five feet.

One Sidewalk Sign is permitted per business. The sign shall only be placed outside during business hours.



## Temporary Signs

10. Feather Sign

**Description**

A Feather Sign is a tall, narrow flag that flutters in the wind, commonly used to attract attention to events or businesses. Feather Signs are considered temporary signs.




**Supplemental Standards**

Feather Signs must be set back at least 15 feet from a front property line.

Feather Signs shall not be placed in an easement or Clear Sight Triangle.

Feather Signs must be removed daily.

11. Political Sign

**Description**

A Political Sign is a temporary sign announcing or supporting political candidates or issues in connection with any national, state, or local election.




**Supplemental Standards**

No individual political sign shall exceed 32 square feet in sign area.

All political signs may be erected no sooner than 90 days before the election and/or caucus to which they pertain and shall be removed within ten days following the same election and/or caucus.

It is unlawful for any person, organization or political committee to publish or print or circulate any campaign advertising or communication which does not specify the name of the sponsor or the name of a responsible officer who authorized the printing or publication or circulation of such material in any municipal election or special election. Written, printed or posted materials shall also show a telephone contact number. If the advertisement is transmitted by audio or audiovisual media, the statement shall be both written legibly and spoken clearly. Disclaimers do not need to be printed on bumper stickers, pins, buttons, pens and similar small items.

Advertising on a duly permitted billboard shall be exempt from the size and time limits stated in this section.

Political signs are permitted to be placed on fences/walls (e.g., chain link fences, retaining walls, rock walls), but are not permitted

to be placed in clear sight triangles or in a manner that would prevent clear sight of vehicles (see **Sec. 38-2.H. Clear Sight Triangle**).

12. Development ID Sign

**Description**

A development identification sign means a permanent sign installed or constructed at the entrance/exit to a residential or commercial development to identify the development name and logo only.

**Supplemental Standards**

Development identification sign (permanent)

a.The maximum sign area shall not exceed 32 square feet.

b.The maximum height shall not exceed ten feet.

c.The sign may be placed in the public right-of-way, provided prior approval has been granted by city manager or official designee.

d.This sign may be used in addition to any other freestanding sign allowed pursuant to this chapter.

~~12.~~13.Temporary Ground Sign

**Description**

A Temporary Ground Sign is a small sign intended for short-term display. Examples of temporary ground signs typically include but are not limited to real estate signs, political signs, or construction signs.




**Supplemental Standards**

Each property is allowed one temporary ground sign per road frontage for up to six months per every 12-month period. The Community Development Director may allow an additional six-month extension if the property is actively listed for sale or at least one building on the site is actively listed for lease.

No permit is required for temporary ground signs.

All temporary ground signs must have a solid, durable backing that resists folding or twisting, and be anchored or fastened to the ground. The property or sign owner must replace any sign that becomes damaged or faded, or reflects more than three degrees off-center.

Temporary Ground Signs are allowed within the required setbacks; however, they are prohibited in the right-of-way.

Temporary Ground Signs shall not exceed 8 square feet for property zoned NH-1 or NH-2, or 24 square feet for all other districts.

In addition, up to four temporary ground signs may be displayed on an indefinite basis if placed within 10 feet of the primary structure within the NH-1, NH-2, or NH-3 districts.

~~13.~~14. Temporary Special Event Banner

**Description**

Temporary Special Event Banners are temporary banners displayed across a public roadway in support of a special event.




**Supplemental Standards**

A Sign Permit shall be obtained, indicating the dates of display, number of banners to be displayed, location(s) of display, etc., and must be approved by the Community Development Director. All Temporary Special Event Banners shall be installed and removed either by the City or the entity requesting the display.

If installed and removed by the City, permit fees shall be based on the number of banners to be installed/removed at a rate approved by the City Council (Resolution No. 23-074). Permit fees shall be paid by the applicant upon permit approval and in advance of sign installation.

If installed and removed by the entity requesting the display the City requires a minimum of $1,000,000 insurance, with the City being named as an additional insured party and the entity must provide a hold harmless indemnity agreement, not holding the City responsible for any accidents or loss in the installation/removal of the banners.

Temporary Special Event Banners shall be restricted to placement on City-owned utility/light poles only.

Temporary Special Event Banners shall only be displayed along City-approved roadways.

Temporary Special Event Banners shall be permitted to be displayed 1.5 times the length of the event being advertised, with a maximum of 21 days.

~~14.~~15. Temporary Wall Banner Sign

**Description**

A Temporary Wall Banner Sign is a lightweight, flexible banner affixed to the side of a building intended for short-term display. Examples of Temporary Wall Banner Signs typically include but are not limited to grand opening or special sale signs.




**Supplemental Standards**

Each nonresidential building or tenant with a valid Certificate of Occupancy is allowed to display a Temporary Wall Banner Sign for a period of no more than 30 days within a 12-month period.

Banners must be securely affixed to the wall and shall be immediately replaced or removed if the banner becomes damaged or worn.

Temporary Wall Banner Signs shall not exceed 24 square feet or 15 percent of the building/tenant facade, whichever is greater.

## H. Permitted Locations and Dimensional Standards

1. Permitted Locations

   Signs types are permitted by zoning district, as indicated in **Figure 38-10-5**.

2. Combined Maximum Area

   The maximum size is determined by the combined area of all attached signs and all freestanding signs. The maximum size for each grouping is indicated in **Figure 38-10-5**.

   a) For attached signs, the building on which the sign shall be placed is used to calculate the square footage of the sign. The exterior is considered the entire perimeter of the building.

   b) For freestanding signs, ~~frontage on a controlled access public street, where under normal conditions a driveway permit would not be granted to that business, shall not be included in the calculation. Where a lot is accessed by an internal drive (e.g., outlots),~~ frontage is calculated based on the largest single frontage along the drive.

   ~~c)~~ For buildings with frontage on more than one street, the sign area is calculated by the longest frontage. ~~on each street. Each frontage side is calculated separately; the signs must be displayed on the same frontage that is measured.~~

   c) Figure 38-10-5. Permitted Sign Locations and Standards

| Zoning Districts | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | NH-1, Neighborhood 1 District (Rural, Suburban, Urban) | NH-2, Neighborhood 2 District (Rural, Suburban, Urban) | NH-3, Neighborhood 3 District (Rural, Suburban, Urban) | CR, Commercial/Retail District (Rural, Suburban, Urban) | LI, Light Industrial District (Rural, Suburban, Urban) | HI, Heavy Industrial District (Rural, Suburban, Urban) | OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban) | OS-2, Open Space-Drainage District (Rural, Suburban, Urban) | MXCO, Mixed Use Corridor Overlay District | TCO, Town Center Overlay District | NCO, Neighborhood Center Overlay District |
| Attached Signs | Max. Combined Area of Attached Signs | | | | | | | | | | |
| | 1 linear foot of exterior wall = 1 sqft | | | 1 linear foot of exterior wall = 1.5 sqft | | | | | 1 linear foot of exterior wall = 1.25 sqft | | 1 linear foot of exterior wall = 1 sqft |
| Awning or Canopy Sign | | X | X | X | X | X | | | X | X | X |
| Projecting Sign | | X | X | X | X | X | | | X | X | X |
| Roof-Mounted Sign | | | | X | X | X | | | | | |
| Wall Sign | X | X | X | X | X | X | X | | X | X | X |
| Window Sign | X | X | X | X | X | X | X | | X | X | X |
| Freestanding Signs | Max. Combined Area of Freestanding Signs | | | | | | | | | | |
| | 0-100' frontage = 50 sqft<br>101-300' frontage = 75 sqft<br>301'+ frontage = 100 sqft | | | 0-100' frontage = 100 sqft<br>101-300' frontage = 150 sqft<br>301'+ frontage = 200 sqft | | | | | 0-100' frontage = 75 sqft<br>101-300' frontage = 125 sqft<br>301'+ frontage = 150 sqft | | 0-100' frontage = 50 sqft<br>101-300' frontage = 75 sqft<br>301'+ frontage = 100 sqft |
| Menu Board Sign | | | | X | X | X | | | X | X | |
| Monument Sign | X | X | X | X | X | X | X | X | X | X | X |
| Pole Sign | | | X | X | X | X | | | | | |
| Sidewalk Sign | X | X | X | X | | | X | | X | X | X |
| Temporary Signs | See individual sign types for dimensions | | | | | | | | | | |
| Feather Sign | X | X | X | X | X | X | X | X | X | X | X |

| | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Political Sign | X | X | X | X | X | X | X | X | X | X | X |
| Temporary Ground Sign | X | X | X | X | X | X | X | X | X | X | X |
| Temporary Special Event Banner | X | X | X | X | X | X | X | X | X | X | |
| Temporary Wall Banner Sign | X | X | X | X | X | X | X | | X | X | |

3. Maximum Number of Freestanding Signs

   Each lot or parcel shall be limited to one freestanding sign~~.~~ unless there is more than 600' of frontage (can be combined by adding both street frontages except in NH-1 zoning districts) than two freestanding signs are permitted.

4. Maximum Height

   The maximum height for freestanding signs is determined by zoning district and street class, as indicated in **Figure 38-10-6**.

5. Minimum Setback

   The minimum setback for the placement of freestanding signs is determined by street class, indicated in **Figure 38-10-6**. Setbacks are measured from the property line.

**Figure 38-10-6. Maximum Height and Minimum Setback for Freestanding Signs**

| Street Class | Maximum Height by Zone | | | | | | | | Minimum Setback | |
|---|---|---|---|---|---|---|---|---|---|---|
| | NH-1, Neighborhood 1 District (Rural, Suburban, Urban) | NH-2, Neighborhood 2 District (Rural, Suburban, Urban) | NH-3, Neighborhood 3 District (Rural, Suburban, Urban) | CR, Commercial/Retail District (Rural, Suburban, Urban) | LI, Light Industrial District (Rural, Suburban, Urban) | HI, Heavy Industrial District (Rural, Suburban, Urban) | OS-1, Open Space-Preserve and Recreational District (Rural, Suburban, Urban) | OS-2, Open Space-Drainage District (Rural, Suburban, Urban) | Front Yard | Side Yard |
| Local Street | 3' | 3' | 6' | 6' | 18' | 30' | 6' | 6' | 10' | 5' |
| Collector Street | 6' | 6' | 18'~~12'~~ | 30'~~18'~~ | ~~18'~~30' | 30' | 12' | 12' | 12' | 5' |
| Minor Arterial | 6' | 6' | 30'~~12'~~ | 30'~~18'~~ | ~~18'~~30' | 30' | 12' | 12' | 15' | 5' |
| Principal Arterial | 6' | 12' | 30'~~18'~~ | 30' | 30' | 30' | 18' | 18' | 15' | 5' |

## I. Sign Features and Lighting

1. Electronic Display Boards

   a) Electronic Display Boards are allowed in conjunction only with the following sign types, and must not exceed 75 percent of the sign face:

      i) Menu Board Sign

      ii) Monument Sign

      iii) Pole Sign

      iv) Wall Sign

   b) No scrolling, flashing, rotating, or animated displays are allowed.

   c) Displays shall remain static for at least 30-second periods. Transitions must occur within a one-second period.

   d) The display shall be configured to turn off or return to a static, default design if a malfunction occurs.

2. Changeable Copy Signs

   Changeable Copy Signs are allowed in conjunction only with the following sign types, and must not exceed 75 percent of the sign face:

   a) Awning or Canopy Sign

   b) Menu Board Sign

   c) Monument Sign

   d) Pole Sign

   e) Projecting Sign

   f) Wall Sign










**Figure 38-10-7. Examples of Electronic Display Boards**







**Figure 38-10-8. Examples of Changeable Copy Signs**

3. Sign Lighting

   a) Maximum Brightness

      i) Maximum brightness levels for internally illuminated signs shall not exceed 5,000 nits when measured from the sign's face at its maximum brightness, during daylight hours and 250 nits when measured from the sign's face at its maximum brightness at night.

      ii) Each internally illuminated sign must have a light sensing device that will automatically adjust the brightness of the display as the natural ambient light conditions change to comply with the limits set here within.

      iii) The luminance on the face of an externally illuminated sign shall not exceed 150 nits. Photometric evidence of the installed luminaires showing compliance with this section shall be provided to the city within ten business days of installation.

      iv) A sign's nighttime lighting shall count toward the maximum allowable lighting for the property (See **Sec. 38-9.G.1**).

   b) Shading and Shielding

      i) Internally illuminated signs must be constructed so that the top of the sign is constructed of metal or of suitable material that does not allow light penetration vertically, so as to ensure that light is not emitted directly towards the sky.

      ii) Externally illuminated signs shall have luminaires mounted at the top of the sign and aimed downward. The luminaires shall be designed, fitted and aimed to shield the lamp and its reflective surfaces from off-site view and to place the light output onto and not beyond the sign.

   c) Signs In and Near a NH-1 District or Rural Character Area

      i) Signs in a NH-1 District or Rural Character Area shall not be illuminated.

      ii) Signs that face a NH-1 District or Rural Character Area having a linear distance of 75 feet or less from that zone shall not be illuminated.

## J. Common Signage Plan

1. Applicability

   A Common Signage Plan applies to two development scenarios:

   a) A multi-tenant center or one lot with multiple buildings, excluding accessory structures (required), and

   b) Multiple adjacent lots (optional).

2. Bonus Area

   Developments utilizing the Common Signage Plan shall receive a 15 percent increase in the maximum size area indicated in **Figure 38-10-5. Permitted Sign Locations and Standards** for freestanding signs.

3. Submittal Requirements

   A Common Signage Plan shall include the following information:

   a) The location of all buildings, parking areas, driveways, landscaped areas, and any other information as required by the City;

   b) Calculation of the maximum total sign area, the maximum height of signs, and the number of signs by type on each lot;

   c) An accurate indication on the plan of the proposed location of each present and future sign of any type; and

d) An accurate depiction of the sign structure and materials, specifying standards for consistency among all signs on the lot(s) affected by the plan with regard to color scheme, lettering or graphic style, lighting, location of each sign on the buildings, materials, and sign proportions.

4. Review and Approval Procedure

a) The Common Signage Plan shall be submitted in conjunction with any site plan or other development plan required by the City.

b) The Community Development Director shall be responsible for the review and approval of a Common Signage Plan.

c) After approval of a Common Signage Plan, no sign shall be erected, placed, painted, or maintained, except in compliance with such plan, and such plan may be enforced in the same way as any provision of the subsection.

## K. Maintenance, Abandonment, and Removal

1. Maintenance and Safety

a) All signs shall be kept in good repair, both structurally and in appearance. All braces, bolts, clips, fastenings and the supporting frame shall be securely affixed to the support structure or wall and shall be free from insect infestation, rot, or other deterioration.

b) If the Code Enforcement Officer determines that any sign becomes unsecured, unsafe or subject to fall, the Code Enforcement Officer shall give written notice of the sign's condition in accordance with **3. Repair or Removal of Noncompliant Signs**.

2. Abandoned Signs

a) All signs shall be fully removed when the business/operation on site is no longer conducted.

i) For signs with a changeable face (e.g., multi-tenant signs), a new blank face shall be inserted. Alternatively, the entire sign face may be painted and the original message must not show through the paint.

ii) For signs where a message is placed on a structure or object (e.g., an awning), only the message is required to be removed. The message must not be visible following removal.

3. Repair or Removal of Noncompliant Signs

a) Any written notice to repair or remove a sign in violation of this code will be sent via certified mail by the Code Enforcement Officer to the land owner and to the sign owner lessee, or person(s) responsible for the sign.

b) If such order is not acted on within seven days, the Code Enforcement Officer may initiate proceedings to remove the sign at the expense of the land owner, sign owner, lessee, or person(s) responsible for the sign.

c) Additional time may be granted by the Code Enforcement Officer if compliance is proceeding.

d) Only one written notice per violation will be issued. The notice shall remain in effect for the duration of the business's present ownership.

e) Upon final determination that the sign is unlawful (following any appeals as outlined in **Sec. 34-3.F. Appeals**), the City reserves the right to remove and dispose of the sign at the sign owner's expense.

f) No notice is required for the removal and disposal of signs illegally placed in the right-of-way or clear sight triangle (see **Sec. 38-2.H. Clear Sight Triangle**).

## L. Nonconforming Signs

1. Nonconforming signs that were lawful at the time of their construction may be continued.

2. No person may increase the extent of nonconformity of a nonconforming sign. No nonconforming sign may be enlarged or altered in such a manner as to aggravate the nonconforming condition, nor may illumination be added to any nonconforming sign.
3. When any sign is substantially damaged (i.e., the cost of restoring the sign is at least 50 percent of the market value of the sign before it was damaged), destroyed, taken down or removed for any purpose other than copy change or normal maintenance operation, it shall not be re-erected, reconstructed, or rebuilt except in full compliance with this section.
4. Any change in the use of any building or property on which a nonconforming sign is located will require that all nonconforming signs on that property be brought into compliance with all applicable sections of this section.
    a) Exception: The message of a nonconforming sign may be changed so long as this does not create any new nonconforming issues.
5. A nonconforming sign shall not be moved or replaced except to bring the sign into conformity with this section.
    a) For the purpose of this subsection, the term "replaced" means the replacing of any or all parts of a sign that would extend the normal life span of the sign. An example is replacing wood pole supports with metal I-beam supports.
6. Any nonconforming sign shall be considered abandoned if the sign is blank for 90 days, and the land and sign owner(s) are responsible for its removal. For the purposes of this subsection, a sign is blank if:
    a) It advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted;
    b) The advertising message it displays becomes illegible in whole or substantial part; or
    c) The advertising copy has been removed.

## Sec. 38-11.Wireless Communication Facilities

### A. Purpose

The purpose of this section is to establish supplementary regulations governing wireless communication facilities, including towers, co-located facilities, and antennas. These regulations promote the following goals:

1. Encourage the location of facilities to preserve the character of Las Cruces' neighborhoods and support viewshed protection;
2. Protect residential uses and land uses from potential adverse impacts of wireless communication facilities;
3. Prioritize co-location of wireless communication facilities over additional single-use towers;
4. Minimize the number of new towers;
5. Encourage the use of minimally visually intrusive technology to the maximum extent technically feasible;
6. Promote regulatory certainty; and
7. Allow telecommunications providers to provide services to the community quickly, effectively, and efficiently.

### B. Applicability

1. This section applies to all towers and antennas located within the City's jurisdiction, except as expressly exempted below.
2. Exemptions
   a) Amateur (Ham) radio antennas, limited to the number and height necessary to engage in amateur communications;
   b) Microwave reflectors and parabolic antennas;
   c) Antennas and equipment located completely inside of buildings; and
   d) Minor modifications of existing wireless communications facilities and attached wireless communications facilities, whether emergency or routine, provided there is little or no change in the visual appearance.
      i) Minor modifications include the addition of antennas to conforming wireless towers and attached wireless communications facilities that comply with all applicable regulations of this section.
      ii) A building permit is required to authorize minor modifications as stated in **i)** above.

### C. General Requirements

1. Federal Law

   The wireless communication facility regulations of this section must be applied within the constraints of the Telecommunications Act of 1996 and Section 6409 of the Middle-Class Tax Relief and Job Creation Act of 2012.
2. All structures shall be sited, designed, constructed, operated, inspected, maintained, repaired, modified, removed and replaced in compliance with the City's adopted Uniform Building Code, as amended.
3. Communication facilities may be considered a principal or accessory use. Another principal or accessory use on the same lot does not preclude installation of a tower on that lot.
4. Required Approvals

   Except in the LI, Light Industrial District (Rural, Suburban, Urban) and HI, Heavy Industrial District (Rural, Suburban, Urban), communication towers must be of a monopole design unless a Special Use Permit is approved (see **Sec. 36-5.C. Special Use Permits (SUPs)**) allowing an alternative design that is determined to better blend into the surrounding environment or that the required antennas cannot be supported by a monopole.

a) Applicable permits are required to authorize alteration of existing, or co-location of new communication facilities on existing structures that comply with the requirements of this Code.

5. Communication structures, towers, and antennas shall comply with the following requirements:

a) Business Registration

Business registrations are required for each communication structure for commercial purposes.

b) Setbacks and Separation

i) Communication structures shall be placed within the primary buildable area for the parcel's specific zoning district and must be to the side and/or rear of all residential dwellings (e.g., house, apartment, duplex, triplex, quadplex, townhouse, etc.).

ii) Freestanding facilities are prohibited in the following locations:

a. Within 50 feet of an existing right-of-way.

b. Within any setback established by the applicable zoning district.

iii) Communication structures must be set back a distance equal to at least 110 percent of the height of the structure from any adjacent lot containing or zoned to permit residential uses.

iv) This use is prohibited within 1,000 feet in any direction of any other freestanding wireless communication facility or structure, as measured from the wall or fence of each facility. This requirement does not apply to small wireless facilities within the public right-of-way.

v) Towers shall be set back one foot for each one foot in height plus 10 percent of the total height from any residential use or structure on any adjacent or the same parcel.

vi) Any increase in height or reduction of minimum spacing or setback requirements shall require approval of a Zoning Variance.

c) Lighting

Towers may not be illuminated by artificial means and may not display strobe lights unless such lighting is expressly required by the Federal Aviation Administration or other federal or state authorities. When incorporated into the approved design of the tower, light fixtures used to illuminate ballfields, parking lots, or similar areas may be attached to the tower.

d) Signage

The use of any portion of a tower for advertising or signs other than warning or equipment information signs is expressly prohibited.

e) Maximum Height

i) Single-carrier wireless communication facilities: 65 feet, or the maximum height permitted in the applicable zoning district.

ii) Co-locations on any existing unconcealed tower or existing structure: 75 feet, or the maximum height permitted within the applicable zoning district plus 10 feet.

f) Viewshed Protection

Only co-locations and stealth towers are permitted in the following locations:

i) Within 660 feet of an easement or public right-of-way identified as part of an existing or future trail system as established by the City’s adopted Active Transportation Plan.

ii) Within 660 feet of the centerline of a public street designated as a protected view corridor.

## D. Co-Location

1. All commercial use communication structures shall be co-located or integrated within an existing structure unless evidence is presented demonstrating that such co-location or integration cannot and should not occur. Evidence may include, but is not limited to, that no other structure suitable for co-location exists:
    a) Within a one-mile radius to meet the applicant's engineering requirements or structural strength or space availability needs for all improvements;
    b) In which unavoidable electromagnetic interference would occur between the new and any existing communication structures;
    c) In which other factors render the use of existing structures unsuitable;
    d) In which urban design features and aesthetic views would be hampered, beyond the objectives desired with the creation of this requirement, of existing natural and man-made structures; and
    e) Whose owners of existing structures would not allow the placement of the applicant's structure or such owners are requiring payments thereof that substantially exceed commercially reasonable rates.
2. Such evidence shall be presented to the Community Development Department for review and approval by the Community Development Director. Such proof may be required as part of the Special Use Permit and/or building permit approval processes, and only then shall an independent, freestanding communication structure be allowed in accordance with other requirements of this Code. Where co-location is proposed on a City-owned facility, such evidence shall also be presented to the Director responsible for City facilities.
3. Co-location of structures shall be in accordance with the following provisions:
    a) If the receiving structure was previously granted a Special Use Permit for its use and placement, including necessary variances for height and setbacks, the original special use permit does not need to be amended provided all requirements of the original Special Use Permit and this section have been met.
    b) Additional buildings and additions to existing equipment and accessory structures for towers must comply with applicable architectural and urban design criteria for the subject property.
    c) An unlimited number of communication antennas may be placed on an existing tower and/or other communication structure, provided all other requirements are met, including building codes and urban design criteria.
    d) If not governed specifically by this section, the building or structure receiving a co-located communication facility must comply with all applicable zoning and building code provisions, if applicable, or other city ordinances and/or state laws related to their placement, use, and construction.
    e) All co-located communication facilities must be an integrated architectural design feature and painted or textured such a color as to blend in with their visual background.
    f) When roof mounts are used, at a minimum, the first five feet of the communication structure shall be screened from view on all sides using building design elements, such as varied roof heights and/or parapets.
    g) Wall mounts cannot project more than three feet from the surface of the building and the projection cannot violate any of the normally required building setbacks and/or screening buffer yards. Structures that are attached parallel to a pitched roof surface cannot project more than three feet above the surface of such roof.
        i) Exception*:* This does not apply to roof top mounted structures that vertically ascend upward from a flat roof or structures placed at the apex of pitched roofs.
    h) All wall-mounted communication structures must maintain a minimum clearance of eight feet above the nearest adjacent ground and/or walking surface.

i) There shall be no limit on the number of wall and roof mount structures, in any zoning district, provided the structure is compatible with and integrated to the architecture of the receiving structure and can be demonstrated in plans to be submitted to the Community Development Director for review and approval.

## E. Stealth Towers

The use of stealth towers or design techniques is encouraged and intended to provide more options for the placement and use of communication structures while integrating or concealing the communication structure into an improvement.

1. Examples of communication structures integrated and/or concealed into public or private facilities using stealth towers include but are not limited to:
   a) Flagpoles,
   b) Spires, bell towers, and other architectural features added to buildings,
   c) Integrated communication structures on utility substations, buildings, and water tanks,
   d) Extensions of communication antennas to existing lighting poles at sports facilities, and
   e) Any other proposed communication structure that is integrated and/or concealed within a building or structure and is approved in accordance with the provisions of this section.

## F. Urban Design Criteria

1. General Provisions
   a) Building architecture, not including the tower, shall be consistent with surrounding structures in both style and construction material.
   b) Access to all communication structures and associated buildings on the property shall be shown on the Site Plans as part of special use or building permit approval processes.
   c) No chain link fencing around any communication structures is allowed along arterial or collector streets.
   d) All utility buildings and structures accessory to a tower must comply with all applicable requirements of the underlying zoning district. Exterior ground mounted equipment occupying more than 50 square feet, if visible from ground level, must be screened from view of abutting property used or zoned for residential purposes by a screening wall or fence in accordance with the screening standards for mechanical and utility equipment in **Sec. 38-8.E.2**.
   e) Equipment buildings associated with communication structures shall follow an architectural style, construction materials, and colors similar to existing buildings within the neighborhood; building facades for tower accessory structures and the first 20 feet of towers shall be painted earth-tones or similar colors to existing structures within the neighborhood and constructed of similar building materials.
   f) Antennas or other radiating/receiving devices are not required to have architectural treatments or other design features, such as painting and texturing, applied as required within this Code, if such treatments would interfere with the operation of the device. Such treatments are required of the supporting structure, including towers, and not the radiating/receiving device.
2. Towers and Other Communication Structures in Residential Districts

   In addition to **1. General Provisions** above, communication structures located within residential districts are also subject to the following:

   a) All private communication structures on residentially zoned property shall either be painted or treated the same color as the primary structure or the surface to which the structure is attached. This includes painting or screening roof-mounted communication structures.

i) Screening and/or painting of roof-mounted structures is required on all sides the residential property in which a communication structure is to be or is placed.

3. Towers and Other Communication Structures in Commercial and Industrial Zoning Districts.

a) Additional Setbacks for Antennas, Communication Structures, and Satellite Service Devices:

i) Structures shall be set back at least one foot for each one foot in height from any residential dwelling structure on any adjacent parcel.

ii) Equipment and accessory structures shall conform to building and accessory structure maximum heights and minimum setbacks for the parcel's specific zoning district.

b) Additional Setbacks and Placement Restrictions for Towers:

i) Structures shall be placed within the primary buildable area for the parcel's specific zoning district and must be to the rear of the primary building structure. If there is no primary building, then the tower must be within the primary buildable area.

ii) A Special Use Permit may be granted to permit tower height greater than what is allowed. The Special Use Permit process shall also be used for any deviations related to setbacks and/or screening buffer yards.

## G. Special Use Permit Review Criteria

1. The regulations within this subsection apply for all commercial communication structures that require the approval of a Special Use Permit.

2. Factors to be Considered

In addition to any other applicable requirements, the following factors must be considered in a decision to approve or deny a special use permit for a wireless communications tower:

a) Height of the proposed tower;

b) Proximity of the tower to residential structures, residential district boundaries, and existing towers;

c) Nature of uses on adjacent and nearby properties;

d) Surrounding topography;

e) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

f) The total number and size of antennas proposed and the ability of the proposed tower to accommodate co-location;

g) Architectural design of utility buildings and accessory structures to blend with the surrounding environment;

h) Proposed ingress and egress;

i) The need for a tower within the immediate geographic area to provide an acceptable level of communications service to the area;

j) The size of the tract and the most likely future development as indicated by the Comprehensive Plan, planned infrastructure, topography and other physical considerations.

## H. Removal of Abandoned Antenna and Towers

Abandonment or cessation of use of the communication structure shall require the removal of all facilities associated with the communication structure from the subject property within six months after the abandonment or cessation of use. Foundations for such structures should be altered or removed to be visually appealing and safe.