CITY OF SUNLAND PARK, NEW MEXICO

CODE OF ORDINANCES

2000

Updated through Ordinance 2018-2, passed 9-4-2018

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PREFACE

This city code of the city of Sunland Park, as supplemented, contains ordinances up to and including ordinance 2018-2, passed September 4, 2018. Ordinances of the city adopted after said ordinance supersede the provisions of this city code to the extent that they are in conflict or inconsistent therewith. Consult the city office in order to ascertain whether any particular provision of the code has been amended, superseded or repealed.

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CHAPTER 1
OFFICIAL CITY CODE

SECTION:

1-1-1: Title
1-1-2: Acceptance
1-1-3: Amendments
1-1-4: Code Alterations

1 -1 -1 : TITLE: Upon the adoption by the Governing Body, this City Code is hereby declared to be and shall hereafter constitute the official City Code of Sunland Park. This City Code of ordinances shall be known and cited as the SUNLAND PARK CITY CODE and is hereby published by authority of the Governing Body and shall be supplemented to incorporate the most recent legislation of the City as provided in Section 1-1-3 of this Chapter. Any reference to the number of any section contained herein shall be understood to refer to the position of the same number, its appropriate chapter and title heading, and to the general penalty clause relating thereto, as well as to the section itself, when reference is made to this City Code by title in any legal documents. (2000 Code)

1-1-2: ACCEPTANCE: The City Code, as hereby presented in printed form, shall hereafter be received without further proof in all courts and in administrative tribunals of this State as the ordinances of the City of general and permanent effect, except the excluded ordinances enumerated in Section 1-2-1 of this Title. (2000 Code)

1-1-3: AMENDMENTS: Any ordinance amending the City Code shall set forth the title, chapter and section number of the section or sections to be amended, and this shall constitute sufficient compliance with any statutory requirement pertaining to the amendment or revision by ordinance of any part of this City Code. All such amendments or revisions by ordinance shall be immediately forwarded to the codifiers, and the said ordinance material shall be prepared for insertion in its proper place in each

copy of this City Code. Each such replacement page shall be properly identified and shall be inserted in each individual copy of the City Code. (2000 Code)

1-1-4: CODE ALTERATIONS: It shall be deemed unlawful for any person to alter, change, replace or deface in any way any section or any page of this City Code in such a manner that the meaning of any phrase or order may be changed or omitted. Replacement pages may be inserted according to the official instructions when so authorized by the Governing Body. The City Clerk-Treasurer shall see that the replacement pages are properly inserted in the official copies maintained in the office of the Clerk-Treasurer. Any person having custody of a copy of the City Code shall make every effort to maintain said Code current as to the most recent ordinances passed. Such person shall see to the immediate insertion of new or replacement pages when such are delivered or made available to such person through the office of the City Clerk-Treasurer. Said Code books, while in actual possession of officials and other interested persons, shall be and remain the property of the City and shall be returned to the office of the City Clerk-Treasurer when directed so to do by order of the Governing Body. (2000 Code)

CHAPTER 2
SAVING CLAUSE

SECTION:

1-2-1: Repeal Of General Ordinances
1-2-2: Public Ways And Public Utility Ordinances
1-2-3: Court Proceedings
1-2-4: Severability Clause

1-2-1: REPEAL OF GENERAL ORDINANCES: All general ordinances of the City passed prior to the adoption of this City Code are hereby repealed, except such as are included in this City Code or are by necessary implication herein reserved from repeal (subject to the saving clauses contained in the following sections), and excluding the following ordinances which are not hereby repealed: tax levy ordinances; appropriation ordinances; ordinances relating to boundaries and annexations; franchise ordinances and other ordinances granting special rights to persons or corporations; contract ordinances and ordinances authorizing the execution of a contract or the issuance of warrants; salary ordinances; ordinances establishing, naming or vacating streets, alleys or other public places; improvement ordinances; bond ordinances; ordinances relating to elections; ordinances relating to the transfer or acceptance of real estate by or from the City; and all special ordinances. (2000 Code)

1-2-2: PUBLIC WAYS AND PUBLIC UTILITY ORDINANCES: No ordinance relating to railroad crossings with streets and other public ways, or relating to the conduct, duties, service or rates of public utilities shall be repealed by virtue of the adoption of this City Code or by virtue of the preceding Section, excepting as the City Code may contain provisions for such matters, in which case, this City Code shall be considered as amending such ordinance or ordinances in respect to such provisions only. (2000 Code)

1-2-3: COURT PROCEEDINGS:

A. Prior Acts: No new ordinance shall be construed or held to repeal a former ordinance whether such former ordinance is expressly repealed or not, as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture or punishment may be mitigated by any provision of a new ordinance, such provision may be, by consent of the party affected, applied to any judgment announced after the new ordinance takes effect.

B. Extend To All Repeals: This Section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.

C. Currently Pending Actions: Nothing contained in this Chapter shall be construed as abating any action now pending under or by virtue of any general ordinance of the City herein repealed, and the provisions of all general ordinances contained in this Code shall be deemed to be continuing provisions and not a new enactment of the same provisions; nor shall this Chapter be deemed as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the City under any ordinance or provision thereof in force at the time of the adoption of this City Code. (2000 Code)

1-2-4: SEVERABILITY CLAUSE: If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this City Code, or any part hereof or any portion adopted by reference or any codes or portions of codes adopted herein is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Code, or any part hereof or any portion adopted by reference or any codes or portions of codes adopted herein. The Governing Body hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections,

subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective. (2000 Code)

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1-3-1: Construction Of Words
1-3-2: Definitions, General
1-3-3: Catchlines

1-3-1: CONSTRUCTION OF WORDS:

A. Whenever any word in any section of this City Code importing the plural number is used in describing or referring to any matters, parties or persons, any single matter, party or person shall be deemed to be included, although distributive words may not have been used. When any subject matter, party or person is referred to in this City Code by words importing the singular number only, or a particular gender, several matters, parties or persons and the opposite gender and bodies corporate shall be deemed to be included; provided, that these rules of construction shall not be applied to any section of this City Code which contains any express provision excluding such construction or where the subject matter or context may be repugnant thereto.

B. The word "ordinance" contained in the ordinances of the City has been changed in the content of this City Code to "Title", "Chapter", "Section" and/or "subsection" or words of like import for organizational and clarification purposes only. Such change to the City's ordinances is not meant to amend passage and effective dates of such original ordinances. (2000 Code)

1-3-2: DEFINITIONS, GENERAL:

Whenever the following words or terms are used in this Code, they shall have such meanings herein ascribed to them, unless the context makes such meaning repugnant thereto:

AGENT: A person acting on behalf of another with authority conferred, either expressly or by implication.
CITY: The City of Sunland Park, County of Dona Ana, State of New Mexico
CODE: The City Code of the City of Sunland Park.
COUNCIL: Unless otherwise indicated, the Council of the City of Sunland Park.
COUNTY: The County of Dona Ana, State of New Mexico.
EMPLOYEES: Whenever reference is made in this Code to a City employee by title only, this shall be construed as though followed by the words "of the City of Sunland Park".
FEE: A sum of money charged by the City for the carrying on of a business, profession or occupation.
FISCAL YEAR': The fiscal year of the City shall begin on July 1 and end on June 30.
GENDER: A word importing either the masculine or feminine gender only shall extend and be applied to the other gender and to persons.
GOVERNING BODY: The Mayor and elected Councilors of the City of Sunland Park.
LICENSE: The permission granted for the carrying on of a business, profession or occupation.
MISDEMEANOR2: Any offense for which the authorized penalty upon conviction is imprisonment in excess of six (6) months but less than one year.
1. NMSA § 6-10-1.
2. NMSA § 31-1-2.

NUISANCE: Anything offensive to the sensibilities of
OCCUPANT: reasonable persons, or any act or activity
OFFENSE: creating a hazard which threatens the health
OFFICERS: and welfare of inhabitants of the City, or any activity which by its perpetuation can reasonably be said to have a detrimental effect on the property of a person or persons within the community.

As applied to a building or land, shall include any person who occupies the whole or any part of such building or land whether alone or with others.

Any act forbidden by any provision of this Code or the omission of any act required by the provisions of this Code.

Whenever reference is made in this Code to a City officer by title only, this shall be construed as though followed by the words "of the City of Sunland Park".

OPERATOR: The person who is in charge of any operation, business or profession.

OWNER: As applied to a building or land, shall include
PERSON: any part owner, joint owner, tenant in common, joint tenant or lessee of the whole or of a part of such building or land.

Any public or private corporation, firm, partnership, association, organization, government or any other group acting as a unit, as well as a natural person.

PERSONAL PROPERTY: Shall include every description of money, goods, chattels, effects, evidence of rights in action and all written instruments by which any pecuniary obligation, right or title to property is created, acknowledged, transferred, increased, defeated, discharged or diminished and every right or interest therein.

RETAILER: Unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things direct to the consumer.
RIGHT OF WAY: The privilege of the immediate use of the roadway or other property.
STATE: The State of New Mexico.
STREET: Shall include alleys, lanes, courts, boulevards,
TENANT: public ways, public squares, public places and
WHOLESALER: sidewalks.

As applied to a building or land, shall include any person who occupies the whole or any part of such building or land, whether alone or with others.

The terms "wholesaler" and "wholesale dealer" as used in this Code, unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things to persons who purchase for the purpose of resale.

WRITTEN, IN WRITING: May include printing and any other mode of representing words and letters, but when the written signature of any person is required by law to any official or public writing or bond, it shall be in the proper handwriting of such person, or in case such person is unable to write, by such person's proper mark. (2000 Code)

1-3-3: CATCHLINES: The catchlines of the several sections of the City Code are intended as mere catchwords to indicate the content of the section and shall not be deemed or taken to be titles of such sections, nor be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any section hereof, nor unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted. (2000 Code)

CHAPTER 4
GENERAL PENALTY
SECTION:

1-4-1: Maximum Penalty
1-4-2: Mandatory Fees Collected Upon Conviction
1-4-3: Disposition And Use Of Fees Collected
1-4-4: Community Service In Lieu Of Incarceration
1-4-5: Application Of Provisions
1-4-6: Liability Of Officers

1-4-1: MAXIMUM PENALTY': Unless a lesser maximum penalty or a specific penalty is established by ordinance for a particular offense, the maximum penalty for violation of this code or any city ordinance shall be as follows:

A. Violations Generally: Except for those violations of this code or city ordinances described in subsections B and C of this section, a fine of not more than five hundred dollars ($500.00) or imprisonment for not more than ninety (90) days or both;

B. Driving While Under The Influence Of Liquor Or Drugs: For violations of this code or an ordinance prohibiting driving a motor vehicle while under the influence of intoxicating liquor or drugs, a fine of not more than nine hundred ninety nine dollars ($999.00) or imprisonment for not more than one hundred seventy nine (179) days, or both; and

C. Industrial User Wastewater Pretreatment: For violations of an industrial user wastewater pretreatment ordinance, or this code, as required by the United States environmental protection agency, a fine of not more than nine hundred ninety nine dollars ($999.00) a day for each violation. (Ord. 98-03, 6-16-1998)

1. NMSA § 3-17-1.

1-4-2: MANDATORY FEES COLLECTED UPON CONVICTION:

A. Mandatory Fees Imposed: In addition to any fine or imprisonment described in section 1-4-1 of this chapter, there is imposed upon any person convicted of violating any provision of this code or a city ordinance the penalty for which carries a potential jail term or any ordinance or code provision relating to the operation of a motor vehicle the following mandatory fees: (Ord. 98-03, 6-16-1998)

1. Corrections Fee: A corrections fee of twenty dollars ($20.00);
2. Judicial Education Fee: A judicial education fee of two dollars ($2.00); and
3. Court Automation Fee: A court automation fee of six dollars ($6.00). (Ord. 03-01, 7-1-2003)

B. Definition Of Convicted: As used in this chapter, "convicted" means the defendant has been found guilty of a criminal charge by the municipal judge, either after trial, a plea of guilty or a plea of nolo contendere, or has elected to pay a penalty assessment in lieu of trial. (Ord. 98-03, 6-16-1998)

1-4-3: DISPOSITION AND USE OF FEES COLLECTED':

A. Corrections Fees: All money collected pursuant to subsection 1-4-2A1 of this chapter shall be deposited in a special fund in the municipal treasury and shall be used solely for municipal jailer or juvenile detention training, for the construction planning, construction, maintenance and operation of the municipal jail or juvenile detention facility, to pay the cost of housing municipal prisoners or juveniles in any detention facility in the state or complying with match or for contribution requirements for the receipt of federal funds relating to jails or juvenile detention facilities; providing inpatient treatment or other substance abuse programs in conjunction with or as an alternative to jail sentencing; defraying the cost of transporting prisoners to jails or juveniles to juvenile detention facilities; or providing electronic monitoring system.

1. A municipality may credit the interest collected from fees deposited in the special fund pursuant to NMSA § 35-14-11, subsection (D).

B. Judicial Education Fees: All money collected pursuant to subsection 1-4-2A2 of this chapter shall be deposited in a special fund in the municipal treasury and shall be remitted monthly to the state treasurer for credit to the judicial education fund and shall be used for education and training, including production of bench books and other written materials of municipal judges and other municipal court personnel.

C. Court Automation Fees: All money collected pursuant to subsection 1-4-2A3 of this chapter shall be deposited in a special fund in the municipal treasury and shall be used solely for municipal jailer or juvenile detention training, for the construction planning, construction, maintenance and operation of the municipal jail or juvenile detention facility, to pay the cost of housing municipal prisoners or juveniles in any detention facility in the state, or complying with match or for contribution requirements for the receipt of federal funds relating to jails or juvenile detention facilities; providing inpatient treatment or other substance abuse programs in conjunction with or as an alternative to jail sentencing; defraying the cost of transporting prisoners to jails or juveniles to juvenile detention facilities; or providing electronic monitoring system. (Ord. 03-01, 7-1-2003)

1-4-4: COMMUNITY SERVICE IN LIEU OF INCARCERATION:

A. Community Service: Every person convicted of a violation of this code or a city ordinance may be sentenced to a period of community service by the municipal court. The period of service and type of service shall be specified by the court.

B. Credit For Work Done: Each prisoner required to work, as provided in subsection A of this section, shall be credited with seven dollars ($7.00) per hour worked toward the reduction of any fine.

C. Release From Incarceration: Each prisoner shall be released from incarceration upon working enough days to reduce the fine to nothing, unless a jail sentence was imposed by the municipal judge and the prisoner has not served the full term. In determining whether a jail sentence has been served, time worked for seven dollars ($7.00) per hour in community service as ordered by the municipal judge shall be credited against the jail sentence imposed by the municipal judge. The credit against a jail sentence imposed shall be that the jail sentence shall be reduced by a twenty four (24) hour period for each eight (8) hours worked, so long as a prisoner shall

not receive credit against a fine and a jail term for the same hours worked.

D. Waiver Of Liability: No person convicted of a violation of this code or a city ordinance may serve in community service unless the person, in writing, waives liability of the city, its officials and employees on a form approved by the city and unless there is adequate supervision available to supervise the community service. (Ord. 96-06, 8-6-1996)

1-4-5: APPLICATION OF PROVISIONS:

A. Application Of Penalty: The penalty provided in this chapter shall be applicable to every section of this code the same as though it were a part of each and every separate section.

B. Acts Punishable Under Different Sections: In all cases where the same offense is made punishable or is created by different clauses or sections of this code, the prosecuting officer may elect under which to proceed, but not more than one recovery shall be had against the same person for the same offense; provided, that the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced.

C. Breach Of Provisions: Whenever the doing of any act or the omission to do

any act constitutes a breach of any section or provision of this code and there shall be no fine or penalty specifically declared for such breach, the provisions of this chapter shall apply. (2000 Code)

1-4-6: LIABILITY OF OFFICERS: No provision of this code designating the duties of any officer or employee shall be so construed as to make such officer or employee liable for any fine or penalty provided for a failure to perform such duty, unless the intention of the city council to impose such fine or penalty on such officer or employee is specifically and clearly expressed in the section creating the duty. (2000 Code)

CHAPTER 5

OFFICIAL AND CORPORATE PROVISIONS

SECTION:

1-5-1: Official Seal
1-5-2: Mission Statement
1-5-3: Vision Statement

1-5-1: **OFFICIAL SEAL:** The design which is attached to Ordinance 1984-06, on file in the office of the City Clerk-Treasurer, is hereby adopted as the Official Seal of the City, and is so entered into the official records of the City. (Ord. 1984-06, 3-13-1984)

1-5-2: **MISSION STATEMENT:** Provide a superior quality of life for the citizens of Sunland Park through the development of our natural, economic, and cultural resources, with a more accountable, transparent, efficient, and effective government that encourages the involvement of its citizens. (Mission Statement, 6-21-2016)

1-5-3: **VISION STATEMENT:** To be the borderland destination of choice where people want to live, work, and play. (Vision Statement, 6-21-2016)

CHAPTER 6

MAYOR AND CITY COUNCIL

SECTION:

1-6-1: Compensation; Travel Expenses
1-6-2: Procedure For Counting Abstentions
1-6-3: Election Districts For City Councilors

1-6-1: COMPENSATION; TRAVEL EXPENSES:

A. Mayor: The mayor shall receive a salary of two thousand eighty four dollars ($2,084.00) payable upon the first day of each calendar month. In addition, when the mayor must travel outside the city on official business, he or she shall be reimbursed for travel and per diem in accordance with state statutory provisions, and

B. Councilors: The councilors shall receive a salary of five hundred dollars ($500.00) per month. Councilors elected after March, 2010 shall receive a salary of seven hundred dollars ($700.00). In addition, when a councilor must travel outside the city on official business, he or she shall be reimbursed for travel and per diem in accordance with the state statutory provisions.

C. Effective Date: The effective date of this section is August 9, 2011, and the provisions of subsections A and B of this section shall result in increases in compensation only for persons appointed or elected mayor and councilor after August 9, 2011. (Ord. 00-02, 1-18-2000; amd. Ord. 2011-01, 1-5-2011; amd. Ord. 2012-01, 2-10-2012)

1-6-2: PROCEDURE FOR COUNTING ABSTENTIONS:

A. Ordinance Or Resolution Passage: If one or more governing body members abstain, then the abstentions (except for conflicts of interest) shall be counted

1. NMSA § 10-15-1.1.

as "no" votes if the action being voted on is passage of an ordinance or resolution. If counting the abstention as a "no" vote results in a tie, then the mayor shall break the tie.

B. Votes Other Than For Ordinance Or Resolution Passage: If one or more governing body members abstain, and the action being voted on is other than the passage of an ordinance or resolution, then abstentions (except for conflict of interest) shall be counted as agreeable with the majority. If there is no majority, because the vote is tied before the abstentions are taken into account, then the abstentions shall not be counted at all, the rule of reduction shall apply, and the mayor shall break the tie.

C. Disqualification For Conflict Of Interest: A disqualification for conflict of interest purposes shall not be counted as a "yes" or "no" vote. The rule of reduction shall be applied in such a case.

D. Abstention By Mayor: An abstention by the mayor shall be counted as a "no" vote. (Ord. 1992-04, 9-16-1992)

1-6-3: ELECTION DISTRICTS FOR CITY COUNCILORS:

A. Purpose: The purpose of this section is to establish single member districts for election of city councilors and to adopt rules and regulations to implement elections by district as authorized in New Mexico Statutes Annotated 1978 section 3-8-1G.

B. Creation Of Districts:

1. Beginning with the March 2002 regular municipal election, city councilors shall reside in and be elected from municipal election districts, except as otherwise provided in this section.

2. There are created six (6) single member municipal election districts, which include the partial and full precincts number 13, 97, and 14.

The boundaries of each municipal election district are shown on the municipal election district map which is labeled exhibit A to Resolution 2011-51 and adopted by reference as if fully set out in this section as the official districting map and is to be kept in the custody of the municipal clerk.

3. The districts created are single member districts.

C. Implementation Of Districting: With respect to the municipal general election of March 2002, those councilors who remain in office until March 2004 by virtue of their election in the March 2000 election shall be deemed to represent the districts created by this section in which they reside as of the effective date hereof and they shall be subject to the same rules, regulations and laws as councilors elected from districts in the March 2002 election. In the March 2002 election, districts 1, 2, and 3 created by this section shall elect city councilors and in the March 2004 election the remaining three (3) districts shall elect city councilors and so thereafter staggered each regular municipal election.

D. Candidates:

1. Only persons residing in a particular municipal election district and who otherwise meet all applicable requirements imposed by law or ordinance shall be allowed to be candidates for the position of city councilor for that municipal election district.

2. In determining whether the residence of a person is in a particular district, the rules set forth in New Mexico Statutes Annotated 1978 section 3-8-3 shall apply.

3. In addition to the requirements for a declaration of a candidacy set forth in New Mexico Statutes Annotated 1978 section 3-8-27A, the municipal clerk shall not accept a declaration of candidacy for the position of city councilor unless the declaration of candidacy states which district the candidate resides in and is seeking election from. The municipal clerk shall determine if the candidate's residence is within the district from which the candidate is seeking election. If the candidate does not reside within the district, the municipal clerk shall determine that the declaration of candidacy is invalid.

4. A write-in candidate shall not be elected to fill the position of city councilor unless the write-in candidate resides in the district from which the write-in candidate is elected.

E. Polling Places: In addition to the requirements of New Mexico Statutes Annotated 1978 section 3-8-11, the governing body shall assure that each election district has not less than one polling place. This does not require that polling places be located in separate physical locations.

F. Ballots: In addition to the requirements of New Mexico Statutes Annotated 1978 section 3-8-29, the municipal clerk shall cause all ballots for separate

candidates for the position of city council by district. The order of the candidates running for office within each district shall be determined by a drawing by lot. There shall be a position for a voter to insert a write-in.

G. Precinct Boards: In addition to the requirements of New Mexico Statutes Annotated 1978 section 3-8-20, the precinct board shall assure that each person votes only for a candidate for the position of city councilor from the district within which that person resides.

H. Publication Of Names Of Candidates: In addition to the requirements of New Mexico Statutes Annotated 1978 section 3-8-30, the municipal clerk shall assure that the publication of the names of candidates for the office of city councilors shall designate from which election district each such candidate is seeking election.

I. Election Of Other Municipal Officers: Nothing in this section shall be construed to affect the manner in which other municipal officers are elected.

J. Plurality Of Votes Cast Required For Election: In addition to the requirements of New Mexico Statutes Annotated 1978 section 3-8-32, each candidate for the position of city councilor shall only receive votes cast for such candidate by the resident qualified electors of the election district from which that candidate is running. The candidate who receives a plurality of votes cast in that district shall be elected to the office for the term designated. (Ord. 2002-01, 1-4-2002; amd. Res. 2011-51, 12-13-2011)

CHAPTER 7

CITY OFFICERS AND EMPLOYEES

SECTION:

1-7-1: Personnel Rules And Regulations Adopted
1-7-2: Retiree Health Care
1-7-3: Exempt Appointed Positions

1-7-1: PERSONNEL RULES AND REGULATIONS ADOPTED:

A. Adoption: The City of Sunland Park Personnel Rules and Regulations of December 1992 are hereby adopted by reference and made a part of the City Code.

B. Amendment: The Governing Body of the City may amend, modify, supplement, repeal or reenact the City Of Sunland Park Personnel Rules and Regulations by resolution. (Ord. 1992-12, 12-16-1992)

1-7-2: **RETIREE HEALTH CARE:** Pursuant to chapter 6, section 9, Laws of New Mexico, 1990, the City determines to be included in coverage under the Retiree Health Care Act[1]. (Ord. 1990-04, 7-18-1990; amd. 2000 Code)

1-7-3: **EXEMPT APPOINTED POSITIONS:** The Governing Body of the City Sunland Park finds it necessary that the following positions be exempt appointed positions. The positions require consistent interpretation and application of policy of the elected leaders of the City as administered by the City Manager. Persons holding these positions must be responsive to and willing to adhere to the policy of the elected City leadership including the preparation and updating of the comprehensive plan and the development of long-range and middle-range forecasting activities, the implementation of current plans, policies and procedures developed or to be developed in the future. Therefore, individuals holding these positions must be responsive to the policy initiatives of the elected City leaders. Persons employed in these positions shall be appointed by the Mayor with the consent of a majority of all members of the Council, however, the Court Administrator is appointed by the Municipal Judge and may be removed by the Municipal Judge. All other appointed officers may be removed only by vote of a majority of all members of the Council.

[1] NMSA § 10-7C-1 et seq.

A. City Community Development Director;

B. Child and Family Development Director;

C. City Clerk;

D. Motor Vehicle Office Manager;

E. City Water and Sewer Department Director;

F. City Attorney;

G. Finance Director;

H. Fire Chief;

I. Police Chief;

J. Public Works Director;

K. Library Director;

L. City Manager;

M. Public Housing Director;

N. Court Administrator. (Ord. 2010-04, 4-14-2010)

CHAPTER 7

CITY OFFICERS AND EMPLOYEES

ARTICLE A. CITY CLERK

SECTION:

1-7A-1: Office Created
1-7A-2: Appointment And Selection Generally
1-7A-3: Oath; Bond
1-7A-4: Compensation
1-7A-5: Qualifications
1-7A-6: Duties
1-7A-7: Serves At Pleasure Of Mayor and Council in the Absence of a City Manager

1-7A-1: **OFFICE CREATED:** There is hereby created the office of the City Clerk. (Ord. 2013-06, 11-5-2013)

1-7A-2: **APPOINTMENT AND SELECTION GENERALLY:** The City Manager shall appoint a person who shall be responsible for the proper and efficient administration of the office of City Clerk. The City Clerk shall be appointed solely on the basis of administrative qualifications and the selection shall not be limited by reason of former residence. The City Clerk shall have a seat, but no vote at all meeting of the Governing Body. (Ord. 2013-06, 11-5-2013)

1-7A-3: **OATH; BOND:** The City Clerk shall take an oath or affirmation to support the Constitution of the United States, the constitution and Laws of New Mexico and faithfully perform the duties of his office in conformance with NMSA § 3-10-2; and within ten (10) days of such oath or affirmation, shall furnish a surety bond to the governing body in the amount prescribed by the governing body or recommended by the City Auditor. The City of Sunland Park shall pay for the surety bond. (Ord. 2013-06, 11-5-2013)

1-7A-4: **COMPENSATION:** The City Clerk shall receive such compensation as allowed in the City of Sunland Park Classification and Pay Plan as adopted by the Governing Body and as may be amended by the Governing Body from time to time. (Ord. 2013-06, 11-5-2013)

1-7A-5: **QUALIFICATIONS:**

A. The City Clerk shall have an Associate's Degree related to the field of Office Administration, business and/or public administration and shall have at least two (2) years' experience in administration in an executive capacity, preferably in or related to general municipal government, or combination of education, training or experience.

B. The City Clerk shall, at the time of appointment, be a New Mexico Certified Municipal Clerk or if not a New Mexico Certified Municipal Clerk, shall begin the process of certification immediately upon employment and shall become certified within four (4) years of appointment. (Ord. 2013-06, 11-5-2013)

1-7A-6: **DUTIES:** The City Clerk shall:

A. Disseminate all ordinances, rules and regulations enacted by the Governing Body;

B. Keep in custody all minutes, ordinances and resolutions approved by the Governing Body;

C. Attend all meetings of the Governing Body, prepare and publish meeting agenda, prepare minutes, and attend other meetings as directed by the Governing Body;

D. Record all proceedings, ordinances and resolutions of the Governing Body;

E. Enforce and/or monitor the Governing Body rules of Procedures during all meeting and/or workshops held by the Governing Body;

F. Upon request, furnish copies of municipal records for a reasonable fee established by the City Council for the cost of furnishing copies of municipal records;

G. Represent the City in regard to local, regional, state and federal activities of concern to the City;

H. Administer the personnel policies of the City as provided in the City Sunland Park Personnel Rules and Regulations;

I. Attend training and professional development workshops at the expense of the City, as approved and directed by the City Manager;

J. Administer the municipal elections and duties related thereof as described in detail in the Municipal Election Code, NMSA Chapter 23, Articles 8 and 9, and as also outlined in the Election code published by the Secretary of State's Office;

K. Develop and prepare budget estimates for the office of City Clerk for submission to the Mayor and Governing Body;

L. Monitor expenditures of the office of City Clerk Department to ensure that expenditures are within budget limits and in accordance with laws governing expenditures of public funds;

M. Perform other duties as directed and/or assigned by the Mayor or the Governing Body;

N. Designate, in writing, the responsibility for administering various procedural phases of assigned duties of the City Clerk. Provided, however, that the City Clerk shall remain responsible for the performance of these duties and be responsible to ensure they are performed in a timely and proper manner;

O. Interact with the diverse entities, individuals and general public so as to find relevant solutions;

P. Keep and maintain all personnel files, and act as the human resources representative of the City of Sunland Park, and perform such other duties that it implies in the case of a vacancy or absence of the Human Resource Director; and

Q. Perform additional duties as necessary or assigned. (Ord. 2013-06, 11-5-2013)

1-7A-7: **SERVES AT THE PLEASURE OF MAYOR AND COUNCIL IN THE ABSENCE OF A CITY MANAGER:** The City Clerk serves at the pleasure of the Mayor and City Council should the position of the City Manager be vacant, and may, subject to the terms of any written employment contract, be removed by such at any time with or without cause. (Ord. 2013-06, 11-5-2013)

CHAPTER 7

CITY OFFICERS AND EMPLOYEES

ARTICLE B. CITY MANAGER

SECTION:

1-7B-1: Manager; Employment; Qualifications
1-7B-2: Duties
1-7B-3: Departments
1-7B-4: Hiring
1-7B-5: Compensation and Contract
1-7B-6: Relationship with the Mayor and City Council
1-7B-7: Appointment and Dismissal of Employees
1-7B-8: Performance Evaluation

1-7B-1: **MANAGER; EMPLOYMENT; QUALIFICATIONS:** The Manager shall be the Chief Administrative Officer for the City of Sunland Park. He or she shall be employed for an indefinite term and until a vacancy is created by death, resignation, or removal by the City Council. The Manager shall be appointed solely on the basis of administrative qualifications and the selection shall not be limited by the reason of former residence. (Ord. 2014-06, 9-2-2014)

1-7B-2: **DUTIES:**

A. The Manager shall:

1. Enforce and carry out all ordinances, rules, and regulations enacted by the City Council;

2. Employ and discharge all persons engaged in the administrative service of the City of Sunland Park;

3. Prepare and submit an annual budget;

4. Make recommendations to the City Council on all matters concerning the welfare of the City of Sunland Park.

B. The Manager shall have a seat, but no vote, at every meeting of the City Council. Except when clearly undesirable or unnecessary, the City Council shall request the opinion of the Manager on any proposed measure. (Ord. 2014-06, 9-2-2014)

1-7B-3: **DEPARTMENTS:** The administration of the affairs of the City of Sunland Park shall be divided into as many departments as may be deemed desirable by the City Council. Each department shall be under the charge of a person employed by the Manager. (Ord. 2014-06, 9-2-2014)

1-7B-4: **HIRING:**

A. Advertisement for the position of Manager will be placed at the direction of the Mayor or his/her designee in a publication for a minimum period of two weeks. An Interview Committee including, at a minimum, one Department Head, the Mayor, and one City Councilor, shall review the applications and interview the applicants. After the Interview Committee has interviewed a minimum of three (3) applicants, the Mayor shall recommend a suitable candidate to the City Council. Subsequently, the City Council must approve a choice by majority vote before employment is offered.

B. In the event the applicant pool is insufficient in number or qualifications, or if the Mayor and Council cannot come to consensus on a candidate's suitability, the position shall be advertised again. (Ord. 2014-06, 9-2-2014)

1-7B-5: **COMPENSATION AND CONTRACT:** The Manager will be compensated based on the contractual agreement entered into by the City Council and the Manager. The contractual agreement shall be "At Will" and considered exempt under the Fair Labor and Standards Act. In addition to the terms and obligations contained in the contract, the Manager shall be subject to the Position Description attached to Ordinance 2014-06 as Exhibit "A." (Ord. 2014-06, 9-2-2014)

1-7B-6: **RELATIONSHIP WITH THE MAYOR AND CITY COUNCIL:** The Manager shall be responsible to the Mayor and City Council for the efficient administration of the departments of city government. (Ord. 2014-06, 9-2-2014)

1-7B-7: **APPOINTMENT AND DISMISSAL OF EMPLOYEES:** The Manager shall have the authority to appoint, discipline, or dismiss any employee provided such action is in compliance with the City's personnel rules and regulations, ordinances, resolutions, or policies. (Ord. 2014-06, 9-2-2014)

1-7B-8: **PERFORMANCE EVALUATION:**

A. City Manager is directly responsible to the Mayor and City Council and shall have a work performance evaluation conducted by the Mayor and City Council;

B. This work performance evaluation shall be conducted after the first ninety (90) days of employment and every six (6) months thereafter in a written format as approved and specified by the Governing Body; and

C. City staff is hereby authorized and instructed to do all deeds as necessary in the accomplishment of the herein above. (Res. 2016-21, 5-3-2016)

CHAPTER 7

CITY OFFICERS AND EMPLOYEES

ARTICLE C. DIRECTOR OF PUBLIC WORKS

SECTION:

1-7C-1: Office Created
1-7C-2: Appointment and Selection Generally
1-7C-3: Oath; Bond
1-7C-4: Compensation
1-7C-5: Qualifications
1-7C-6: General Statement of Duties
1-7C-7: Essential Duties and Responsibilities
1-7C-8: Environmental/Physical Conditions
1-7C-9: Serves at the Pleasure of the Mayor and Council in the Absence of a City Manager

1-7C-1: **OFFICE CREATED:** There is hereby created the office of the Director of the Public Works for the Public Works Department of the City of Sunland Park. (Ord. 2013-10, 11-18-2013)

1-7C-2: **APPOINTMENT AND SELECTION GENERALLY:** The City Manager shall appoint a person who shall be responsible for the proper and efficient administration of the office of the Director of Public Works of the City of Sunland Park. The Director of Public Works provides critical services for the public by directing all aspects and functions of the Public Works Department, including the maintenance and design of streets and the city irrigation system. The Director is responsible for overseeing the General Maintenance, Parks and Recreation, Animal/Vector Control, Streets, Solid Waste, and the Youth and Seniors Divisions. This position shall be appointed solely based on qualifications and shall not be limited by reason of former residence. (Ord. 2013-10, 11-18-2013)

1-7C-3: **OATH; BOND:** The Director of Public Works shall take an oath or affirmation to support the Constitution of the United States, the constitution and Laws of the State of New Mexico and to faithfully perform the duties of said office in conformance with NMSA § 3-10-2; and within ten (10) days of such oath or affirmation; shall furnish a surety bond to the governing body in the amount prescribed by the governing body or recommended by the City Auditor. The City of Sunland Park shall pay for the surety bond. (Ord. 2013-10, 11-18-2013)

1-7C-4: **COMPENSATION:** The Director of Public Works shall receive such compensation as allowed by the City classification and pay plan as adopted by the Governing Body and may be amended by the Governing Body from time to time. (Ord. 2013-10, 11-18-2013)

1-7C-5: **QUALIFICATIONS:**

A. The Director of the Public Works shall possess Bachelor's Degree and at least four (4) years as supervisor or any equivalent combination of education and experience; possess a valid driver license; and shall be required to pass physical and psychological examination by a licensed physician chosen and paid be the City of Sunland Park.

B. Minimum Requirements:

1. Extensive knowledge, experience and qualifications to direct street, park and recreational facilities maintenance, and to work with the consulting engineers in the planning designing and implementing the various projects of the Public Works Department;

2. Knowledge of public agency budgets, contract administration, administrative practices, and general principles of risk management related to functions of assigned area;

3. Ability to plan, assign, direct, coordinate and review the work of others; to present information clearly and concisely, orally or in writing; to establish effective working relationships with associates and the public; to establish rules of job/worker safety and to enforce observance of safety precautions in the work place; and a general knowledge of safety functions of municipal government and its relationship to the Federal, state and county governments;

4. Professional knowledge of the business and management principals involved in strategic planning, resource allocation, leadership, and coordination of human capital and resources; principles and practices of employee supervision, including work planning, assignment, review and evaluation;

5. Knowledge of relevant equipment, policies, procedures and strategies to promote effective safety operations for the protection of employees, public, and property; and

6. Perform other duties at the direction of the City Manager. (Ord. 2013-10, 11-18-2013)

1-7C-6: **GENERAL STATEMENT OF DUTIES:**

A. The Director of Public Works is responsible for the effective and efficient administration of the Public Works Department to provide for the health, safety and welfare of the citizens of Sunland Park. The duties of the office are performed with considerable responsibility for independent action and decision-making under the broad policy guidance of the City Manager, and the quality of work is reviewed through meetings, reports and observation of results obtained.

B. The Director of Public Works may designate, in writing, the responsibility for administering various procedural phases of the assigned duties, however the Director of the Public Works shall have the responsibility to oversee the performance of the duties and to ensure that they are performed in a timely and proper manner.

C. The duties and responsibilities listed are intended only as illustrations of various types of work that may performed and the omission of specific duties does not exclude them from the position if the work is similar or logical to the position. (Ord. 2013-10, 11-18-2013)

1-7C-7: **ESSENTIAL DUTIES AND RESPONSIBILITIES:** The Director of the Public Works shall:

A. Supervise, direct and administer the multiple divisions within the Public Works Department, delegating work through subordinate supervisor(s);

B. Determine personnel, equipment and facilities required for the efficient administration of the Department and make recommendations to City Manager;

C. Participate in the selection of all Department employees;

D. Direct the training assignment, discipline of subordinates, and evaluate performance of staff;

E. Meet with the citizens and carry out other activities in dealing with the public;

F. Confer and cooperate with the directors of other departments;

G. Direct and monitor all activities of Department employees to ensure that the city parks and recreation facilities, general maintenance, streets, animal/vector control, youth and senior activities are operated in a safe, efficient and effective manner in conformance with the applicable laws of the Federal, state and local governments;

H. Advise the City Manager on the development of problems that may arise affecting the health, welfare and safety of the citizens of the City;

I. Meet with the City Manager and professional engineering consultants regarding scope of work to be performed and contract requirements;

J. Review and comment on any subdivision plans or development proposals submitted to the Community Development Department;

K. Prepare Department budget estimates for submission to the City Manager and the Governing Body;

L. Monitor expenditures of the Department to ensure that expenditures are within budget limits and in accordance with laws governing expenditures of public funds;

M. Attend training and professional development workshops at the expense of the city, as approved and directed by the City Manager;

N. Handle grievances, maintains Department discipline, and promote the proper conduct and behavior of Department personnel;

O. Prepare and submits periodic reports to the City Manager regarding the Department's activities and prepare a variety of other reports as appropriate;

P. Attend conferences and meetings to keep abreast of current trends in the field; represent the Public Works Department in a variety of local, county, state, and other meetings as directed by the City Manager;

Q. Attend all regular or special meetings of the City Council; and attend other meetings as appropriate;

R. Represent the City and the Department at civic, community, and governmental meetings;

S. Coordinate and interact with the diverse entities and individuals, such as consultants, engineers, contractors, architects and the general public so as to find relevant solutions; and

T. Perform additional duties as necessary or assigned. (Ord. 2013-10, 11-18-2013)

1-7C-8: **ENVIRONMENTAL/PHYSICAL CONDITIONS:**

A. While performing the duties of this job, the employee is required as appropriate to stand; walk; use hands and fingers to handle, feel or operate machines, tools, or controls; and reach with hands and arms; will be required to sit, climb, balance, stoop, kneel, crouch, crawl, talk, hear and smell;

B. Must occasionally lift and/or move up to fifty (50) pounds;

C. Will occasionally work in outside weather conditions, be exposed to fumes, toxins or other caustic chemicals;

D. Will occasionally work near moving mechanical parts, and in high, precarious places, and be exposed to wet and/or humid conditions, fumes or airborne particles, toxic or caustic chemicals, risk of electrical shock, and vibration;

E. Will be exposed to moderate noise level in the work environment and at times loud when operating or in the vicinity of equipment. (Ord. 2013-10, 11-18-2013)

1-7C-9: **SERVES AT THE PLEASURE OF THE MAYOR AND COUNCIL IN THE ABSENCE OF A CITY MANAGER:** The Director of the Public Works serves at the pleasure of the Mayor and Council should the position of City Manager be vacant, and may, subject to the terms of any written employment contract, be removed at any time with or without cause. (Ord. 2013-10, 11-18-2013)

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CHAPTER 7
CITY OFFICERS AND EMPLOYEES
ARTICLE D. SUNLAND PORT AUTHORITY
SECTION:

1-7D-1: Corporate Responsibilities
1-7D-2: Accountability
1-7D-3: Board Of Directors And General Chairman/Executive Director
1-7D-4: Authority Personnel
1-7D-5: Corporate Powers And Authority

1-7D-1: CORPORATE RESPONSIBILITIES: The Authority will be responsible for the following:

A. Management, control, maintenance and police security of Port support facilities, and related industrial, commercial, tourist, industrial research activities, and utilities serving Port and Port-related activities.

B. Planning, management, and control of the development of future Port support and Port-related facilities and activities.

C. Research, planning and management, in coordination with the Republic of Mexico, of measures to remove or reduce obstacles to trade between and/or through the Republic of Mexico and the State of New Mexico, U.S.A.

D. Same responsibilities as subsections A and B of this Section should apply to such other activities as airports, heliports, spaceports, and possibly seaports.

E. Payment, after completion of first year operations, shall be made to said Authority of all Authority operating expense from revenue received from user fees charged and received by the Authority to the
City of Sunland Park
1-7D-1 1-7D-3
General Fund of the City. All future revenues and fees will go to said account.

F. Payment of annual principal and interest on revenue bonds issued and sold by the Authority shall be made from a Bond Retirement Reserve Fund which shall accrue from the user fees and/or toll receipts. (Ord. 1991-04, 3-6-1991, eff. 3-6-1991)

1-7D-2: ACCOUNTABILITY: The Sunland Port Authority shall prepare and submit directly to the City Clerk-Treasurer by December 1 of each year, a complete statement of all financial transactions in which the Authority has been involved. (Ord. 1991-04, 3-6-1991, eff. 3-6-1991)

1-7D-3: BOARD OF DIRECTORS AND GENERAL CHAIRMAN/ EXECUTIVE DIRECTOR:

A. Establishment: There shall be nine (9) directors and one general chairman/executive director of said Port Authority.

B. Composition: The incumbent Mayor and incumbent City Councilors of the City shall comprise seven (7) members of the Authority. The other two (2) shall be the current chairman of the Sunland Park Transportation Development District and the current chairman of the Sunland Park Planning and Zoning Commission. This will be a total of nine (9) voting members on said Port Authority.

C. General Chairman/Executive Director: The general chairman/ executive director of said Port Authority shall be appointed by the nine (9) members of the Board of Directors and shall serve at the pleasure of the Board of Directors. This general chairman/executive director shall be paid an annual salary (to be determined by the Board of Directors) plus actual expenses incurred in the travel for Port Authority business reasons.

D. Meetings: Directors of the Port Authority shall meet nominally four (4) times a year or otherwise upon call for a meeting issued by the general chairman/executive director. (Ord. 1991-04, 3-6-1991, eff. 3-6-1991)

1-7D-4: AUTHORITY PERSONNEL: Personnel on the Port Authority payroll shall devote all of their duty time concerned only with official Authority business. Rates of pay to Authority personnel shall be determined by the Board of Directors of the Authority. (Ord. 1991-04, 3-6-1991, eff. 3-6-1991)

1-7D-5: CORPORATE POWERS AND AUTHORITY:

A. The Port Authority shall have all powers and authority already granted to the City, including eminent domain.

B. The Port Authority may own, buy, sell, lease, and swap (value for value) land for Port related activities.

C. The Port Authority Board of Directors shall set all user fees and/or relevant tolls.

D. Jurisdiction for zoning and dictate of kind and class of construction on land owned, or legally set aside, for the Authority to buy, shall be granted to the Sunland Port Authority.

E. Power to compel payment of user fees on services, private construction permits and on private land purchases within Port Authority's jurisdiction (in order to finance infrastructure, development roads, utilities, and customer service lines).

F. Power of Port Authority to issue and sell revenue bonds, subject to preissue feasibility approval by revenue bond underwriters that are acceptable to the New Mexico Treasurer.

G. Authority to grant franchises and/or concessions that are in the best interests to the City and the State, by and through procedures that are common to large municipalities in New Mexico.

H. Authority to contract with franchiser or concessionaire to collect from public users for services rendered a user fee (surcharge or toll). This will be done with prior approval by the United States Department of Commerce.

Power to invoke authority in the preceding subsections A through H and the responsibility for exercising those authorities rests with the whole Board of Directors and the general chairman/executive director of the Sunland Port Authority. (Ord. 1991-04, 3-6-1991, eff. 3-6-1991)

CHAPTER 7

CITY OFFICERS AND EMPLOYEES

ARTICLE E. POLICE CHIEF

SECTION:

1-7E-1: Office Created
1-7E-2: Appointment And Selection Generally
1-7E-3: Oath; Bond
1-7E-4: Compensation
1-7E-5: Qualifications
1-7E-6: General Statement of Duties
1-7E-7: Essential Duties and Responsibilities
1-7E-8: Environment/Physical Conditions
1-7E-9: Serves at the Pleasure of the Mayor and Council in the Absence of a City Manager

1-7E-1: **OFFICE CREATED:** There is hereby created the office of the Chief of Police of the City of Sunland Park Police Department. (Ord. 2013-08, 11-18-2013)

1-7E-2: **APPOINTMENT AND SELECTION GENERALLY:** The City Manager shall appoint a person who shall be responsible for the proper and efficient administration of the Office of Chief of Police of the City of Sunland Park. The position shall be appointed solely on the basis of law enforcement qualifications and shall not be limited by reason of former residence. (Ord. 2013-08, 11-18-2013)

1-7E-3: **OATH; BOND:** The Chief of Police shall take an oath or affirmation to support the Constitution of the United States, the constitution and Laws of the State of New Mexico and to faithfully perform the duties of said office in conformance with NMSA § 3-10-2; and within ten (10) days of such oath or affirmation; shall furnish a surety bond to the governing body in the amount prescribed by the governing body or recommended by the City Auditor. The City of Sunland Park shall pay for the surety bond. (Ord. 2013-08, 11-18-2013)

1-7E-4: **COMPENSATION:** The Chief of Police shall receive such compensation as allowed by the City Classification and Pay Plan as adopted by the Governing Body and may, from time to time be amended by the Governing Body. (Ord. 2013-08, 11-18-2013)

1-7E-5: **QUALIFICATIONS:**

A. The Chief of Police shall be free of any felony convictions; be a United States citizen; and shall be required to pass a physical and current psychological examination by a licensed physician chosen and paid by the City of Sunland Park.

B. Education and Experience:

1. The Chief of Police shall possess a Bachelor's degree in Police Science, Law Enforcement, Criminal Justice, Business or Public Administration or related field;

2. Seven (7) years of experience in police work, three (3) years of which must have been equivalent to police lieutenant or higher; and

3. Completion of the basic law enforcement training academy or equivalent; and/or

4. Any equivalent combination of years of education and experience.

C. Minimum Requirements:

1. New Mexico Driver's License, or equivalent license issued by another state;

2. Thorough knowledge of modern law enforcement principals, procedures, techniques and equipment; considerable knowledge of applicable laws, ordinances and department rules and regulations;

3. Impartially and firmly exercise appointing officer authority through subordinate supervisors to enforce personnel and safety rules and regulations, and provide leadership to motivate productivity and cooperation of individuals or teams to produce quality and timely operation results;

4. Formulate and establish department policies, budgetary goals and field operation objectives;

5. Apply administrative and managerial principals and techniques;

6. Read and comprehend common financial and legal documents;

7. Apply established mathematical and statistical techniques to analyze data in practical situations;

8. Define problems dealing with several abstract and concrete variables such as when responding to inquiries or complaints, or resolving internal conflicts;

9. Express oneself clearly and concisely orally and in writing to analyze and persuasively explain complex technical and regulatory standards and practices in reports, correspondence, speeches and discussion;

10. Establish and maintain effective working relationships with fellow employees, city officials, other agencies, civic organizations and the general public using diplomacy in complicated situations involving common operating and management issues;

11. Exercising good judgment and making sound decisions;

12. Skilled in the use of Police equipment;

13. Operation of a motor vehicle through city traffic. (Ord. 2013-08, 11-18-2013)

1-7E-6: **GENERAL STATEMENT OF DUTIES:** Under the general direction, as department head, perform a variety of complex administrative, supervisory duties; engage in effective planning, coordinating and directing the activities of the Police Department utilizing staff management, resource allocation, programs, initiatives and sound fiscal practices. (Ord. 2013-08, 11-18-2013)

1-7E-7: **ESSENTIAL DUTIES AND RESPONSIBILITIES:** The Chief of Police shall:

A. Plan, coordinate, and evaluate Police Department operations;

B. Develops policies and procedures for the Department mandated by law, to ensure efficient operations of the department, and implement directives from the City Manager;

C. Plan and implement a law enforcement program for the City of Sunland Park in order to better carry out the policies and goals of the City Management; review Departmental performance and effectiveness, formulate programs or policies to alleviate deficiencies;

D. Ensure that laws and ordinances are enforced and that public peace and safety is maintained;

E. Coordinate use of the information gathered and work accomplished by various officers; assign officers to special investigations as needs arise for their specific skills;

F. Assure that personnel are assigned to shifts and working units which provide optimum effectiveness in terms of current situations and circumstances governing development;

G. Review evidence, witnesses, and suspects in criminal cases to correlate all aspects, and to assess for trends, similarities, or for associations with other cases;

H. Supervise and coordinate the preparation and presentation of the annual budget for the Department; direct the implementation of the department budget; plan for and review specifications for new or replaced equipment;

I. Direct department administration in conducting cost-benefit, statistical or other analyses such as project labor requirements and material specifications; review funding requests, propose program improvements and suggest staffing to prepare consolidated annual budgets; set department performance standards; control receipt, allocation and expenditure; analyze personnel, equipment, supplies and maintenance costs, and justify deviations from forecasts following established City financial policies and procedures;

J. Prepare and submit periodic reports to the City Manager upon request, regarding the Department's activities and prepare a variety of other reports as appropriate;

K. Cooperate with County, State and Federal Law Enforcement agencies as appropriate where activities of the Police Department are involved;

L. Meet with elected or appointed officials, other law enforcement officials, community and business representatives and the public on all aspects of the Department activities;

M. Serve on boards and committees representing the City and Department at civic, community and governmental meetings;

N. Coordinate activities with supervisors and other City departments, exchange information with officers in other law enforcement agencies, the District Attorney, Court Administrator, and City Attorney's Office regarding cases, policies and procedures.

O. Oversee the operations and update the required department record keeping in areas such as payroll, employee files, purchase requisitions and other transactions;

P. Direct and oversee administration of collective bargaining agreements; participate in negotiations with the police union; maintain liaison with labor representatives and ensure maintenance of management rights;

Q. Supervise assigned supervisory and non-supervisory personnel; schedule work to expedite flow and balance loads; assign duties, issue written and oral instructions; checking work for service effectiveness, quality acceptability, and policy and procedural conformance; guide subordinates to overcome difficulties encountered, correct errors and rectify complaints; appraise

performance of direct reports and review employee ratings by subordinate supervisors, coaching to motivate competency improvement and career advancement; arrange for or conduct internal orientation, job training, and employee development activities; enforcing personnel rules and regulations, enforce conduct, courtesy, attendance, appearance and safety standards; maintain harmony among employees, resolve applicable grievances; interview and recommend hiring of applicants; commend, transfer, discipline and terminate employees; changing staffing levels and job designs;

R. Attend all regular or special meetings of the City Council; and attend other meetings as appropriate;

S. Attend training and professional development workshops at the expense of the city, as approved and directed by the City Manager to keep abreast of current trends in the field;

T. Perform additional duties as necessary or assigned. (Ord. 2013-08, 11-18-2013)

1-7E-8: **ENVIRONMENT/PHYSICAL CONDITIONS:**

A. Availability for evening and weekend work as needed.

B. Will occasionally work in outside weather conditions.

C. Will occasionally be exposed to wet and/or humid conditions, fumes or airborne particles, toxic or caustic chemicals, extreme cold, extreme heat, and vibration.

D. May frequently be exposed to hazard conditions related to but not limited to traffic hazards, civil disturbances, rescues, hostile individuals, exposure to diseases, operation of heavy equipment, slips and falls.

E. The noise level in the work environment is usually moderate. (Ord. 2013-08, 11-18-2013)

1-7E-9: **SERVES AT THE PLEASURE OF THE MAYOR AND COUNCIL IN THE ABSENCE OF A CITY MANAGER:** The Chief of Police serves at the pleasure of the Mayor and Council should the position of the City Manager be vacant, and may, subject to the terms of any written employment contract, be removed by such at any time with or without cause. (Ord. 2013-08, 11-18-2013)

CHAPTER 7

CITY OFFICERS AND EMPLOYEES

ARTICLE F. FIRE CHIEF

SECTION:

1-7F-1: Office Created
1-7F-2: Appointment and Selection Generally
1-7F-3: Oath; Bond
1-7F-4: Compensation
1-7F-5: Qualifications
1-7F-6: General Statement of Duties
1-7F-7: Essential Duties and Responsibilities
1-7F-8: Environment/Physical Conditions
1-7F-9: Serves at the Pleasure of the Mayor and Council in the Absence of a City Manager

1-7F-1: **OFFICE CREATED:** There is hereby created the office of the Fire Chief of the City of Sunland Park Fire Department. (Ord. 2013-09, 11-18-2013)

1-7F-2: **APPOINTMENT AND SELECTION GENERALLY:** The City Manager shall appoint a person who shall be responsible for the proper and efficient administration of the Office of the Fire Chief of the Fire Department of the City of Sunland Park. The position shall be appointed solely based on qualifications and shall not be limited by reason of former residence. (Ord. 2013-09, 11-18-2013)

1-7F-3: **OATH: BOND:** The Fire Chief shall take an oath or affirmation to support the Constitution of the United States, the constitution and Laws of the State of New Mexico and to faithfully perform the duties of said office in conformance with NMSA § 3-10-2; and within ten (10) days of such oath or affirmation; shall furnish a surety bond to the governing body in the amount prescribed by the governing body or recommended by the City Auditor. The City of Sunland Park shall pay for the surety bond. (Ord. 2013-09, 11-18-2013)

1-7F-4: **COMPENSATION:** The Fire Chief shall receive such compensation as allowed by the City Classification and Pay Plan as adopted by the Governing Body and may, from time to time be amended by the Governing Body. (Ord. 2013-09, 11-18-2013)

1-7F-5: **QUALIFICATIONS:**

A. The Fire Chief shall be free of any felony convictions; be a United States citizen; and shall be required to pass a physical and current psychological examination by a licensed physician chosen and paid by the City of Sunland Park.

B. Education and Experience:

1. The Fire Chief shall possess a Bachelor's degree in Fire Science, Business or Public Administration or related field or graduation from the National Fire Academy's Executive Officer Program and ten (10) years of progressively responsible fire protection and suppression experience in municipal fire agency of similar size of the City of Sunland Park, or larger, including two (2) years of recent command experience involving supervision and administration of an established fire district comprised of several fire stations.

2. IFSAC Firefighter I, II.

3. IFSAC Hazardous Material Awareness and Operations.

4. IFSAC Fire Inspector I.

5. IFSAC Fire Officer I, II.

6. New Mexico EMT-Basic or must reciprocity within twelve (12) months.

7. National Incident Management System (NIMS), Incident Command System (ICS) 100, 200,300, 400, 700, 800.

C. Minimum Requirements:

1. New Mexico Class "E" Driver License, or equivalent license issued by another state;

2. Comprehensive knowledge of the principals, practices, methods and equipment of modern fire prevention and suppression: laws, ordinances, rules and regulations pertinent to Fire Department activities; water supply and distribution systems; management theories and administrative practices as applied to analysis and evaluation of programs, policies and operation needs; principles and practices of municipal budget preparation and administration;

3. Ability to plan, develop, implement, coordinate and control functions of a municipal fire department;

4. Impartially and firmly exercise appointing officer authority through subordinate supervisors to enforce personnel and safety rules and regulations, and provide leadership to motivate productivity and cooperation of individuals or teams to produce quality and timely operation results;

5. Formulate and establish department policies, budgetary goals and field operation objectives;

6. Apply administrative and managerial principals and techniques;

7. Read and comprehend common financial and legal documents;

8. Apply established mathematical and statistical techniques to analyze data in practical situations;

9. Define problems dealing with several abstract and concrete variables such as when responding to inquiries or complaints, or resolving internal conflicts;

10. Express oneself clearly and concisely orally and in writing to analyze and persuasively explain complex technical and regulatory standards and practices in reports, correspondence, speeches and discussion;

11. Establish and maintain effective working relationships with fellow employees, city officials, other agencies, civic organizations and the general public using diplomacy in complicated situations involving common operating and management issues;

12. Exercising good judgment and making sound decisions;

13. Skilled in the use of firefighting equipment;

14. Operation of a motor vehicle through city traffic. (Ord. 2013-09, 11-18-2013)

1-7F-6: **GENERAL STATEMENT OF DUTIES:** Under the general direction, as department head, manages fire prevention and suppression, rescue, training communications, and other activities designed to protect lives, property through effective planning, staff management, resource allocation, programs, initiatives and sound fiscal practices. (Ord. 2013-09, 11-18-2013)

1-7F-7: **ESSENTIAL DUTIES AND RESPONSIBILITIES:** The Fire Chief shall:

A. Plan, develop and organize fire support and operations programs and projects;

B. Ensures that policies and methods meet statutory requirements; reviewing and interpreting current and proposed legislation and regulation in conjunction with City legal staff; participating in the development of public safety short and long range plans by determining departmental objectives, priorities and resources required for attainment of goals; ordinances, resolutions and major operating adjustments to preserve and enhance efficiency and effectiveness

of fire suppression and prevention activities including review of staff proposals to solve problems such as integration of processes and services of other City departments, other jurisdictions, and regulatory agencies; studying and standardizing methods and performance measures to continuously improve operating productivities and quality; directing and participating in research of alternative approaches to fire suppression, hazardous material handling, fire and life safety code and emergency programs; presenting proposals to Council and other board meetings;

C. Implement, coordinate and evaluate timely, reliable and economical fire prevention including inspection, rescue, training, communication and maintenance within available sources;

D. Be involved in responding to alarms and directing activities at large for fire or incident scenes; acquiring and allocating approved personnel, equipment and supplies, and arranging for maintenance; scheduling multiple projects and reviewing progress, costs, field investigations and diagnosing and solving priority conflicts and organization problems; initiating corrective measures and controls to expedite and optimize interrelated activities and facilitate flow of communications;

E. Advising other City departments and elected officials; explaining department functions and rules to citizens, civic groups, regulatory agencies to solve operating problems and rectify complaints;

F. Maintaining liaisons with state and Federal agencies having regulatory authority over the Fire Department;

G. Serves on boards and committees; represent the City and Department at civic, community and governmental meetings;

H. Direct department administration in conducting cost-benefit, statistical or other analyses such as project labor requirements and material specifications, and reviewing funding request, propose program improvements and suggest staffing to prepare consolidated annual budgets, and set department performance standards; controlling receipt, allocation and expenditure by recording analyzing personnel, equipment, supplies and maintenance cost, an justify deviations from forecast following established City financial policies and procedures;

I. Implement Mayoral directives; preparing and presenting technical, statistical and cost estimates and results reports for the City official and executives, and other jurisdictions and agencies;

J. Overseeing the operations and updating the required department record keeping in areas such as payroll, employee files, purchase requisitions and other transactions;

K. Directing and overseeing administration of collective bargaining agreements; participating in negotiations with the firefighters union; maintaining liaison with labor representatives and ensuring maintenance of management rights;

L. Supervise assigned supervisory and non-supervisory personnel and is involved in scheduling work to expedite flow and balance loads; assigning duties, issuing written and oral instructions; checking work for service effectiveness, quality, acceptability, and policy and procedural conformance; guiding subordinates to overcome difficulties encountered, correct errors and rectify complaints; appraising performance and review employee ratings by subordinate supervisors, coaching to motivate competency improvement and career advancement; arranging for or conducting internal orientation, job training, and employee development activities; enforcing personnel rules and regulations, enforce conduct, courtesy, attendance, appearance and safety standards; maintain harmony among employees, resolve applicable grievances; interview and recommend applicants for employment; commend, transfer, discipline and terminate employees; changing staffing levels and job designs;

M. Prepare and submit periodic reports to the City Manager regarding the Department's activities and prepares a variety of other report as appropriate;

N. Attend all regular or special meetings of the City Council; and attend other meetings as appropriate;

O. Attend training and professional development workshops at the expense of the city, as approved and directed by the City Manager;

P. Attend conferences and meetings to keep abreast of current trends in the field; represents the Fire Department in a variety of local, county, state and other meetings as directed by the City Manager;

Q. Perform additional duties as necessary or assigned. (Ord. 2013-09, 11-18-2013)

1-7F-8: **ENVIRONMENT/PHYSICAL CONDITIONS:**

A. Availability for evening and weekend work as needed.

B. Will work primarily in an office setting but may frequently be exposed to hazardous conditions related to but not limited to structure fires, hazardous material releases, civil disturbances, rescues, hostile patients, exposure to diseases, operation of heavy equipment, slips and falls.

C. Occasionally climbing, laying down, stooping, kneeling and bending.

D. Frequent exposure to various weather conditions.

E. Fieldwork may be required. (Ord. 2013-09, 11-18-2013)

1-7F-9: **SERVES AT THE PLEASURE OF THE MAYOR AND COUNCIL IN THE ABSENCE OF A CITY MANAGER:** The Fire Chief serves at the pleasure of the Mayor and Council should the position of the City Manager be vacant, and may, subject to the terms of any written employment contract, be removed by such at any time with or without cause. (Ord. 2013-09, 11-18-2013)

CHAPTER 7
CITY OFFICERS AND EMPLOYEES
ARTICLE G. CITY ATTORNEY

SECTION:

1-7G-1: Office Created; Appointment
1-7G-2: Appointment And Selection Generally
1-7G-3: Oath; Bond
1-7G-4: Compensation
1-7G-5: General Statement Of Duties
1-7G-6: Essential Duties And Responsibilities
1-7G-7: Qualifications And Job Description
1-7G-8: Serves At Pleasure Of Governing Body

1-7G-1: OFFICE CREATED; APPOINTMENT: There is hereby created the office of the city attorney, which officer shall be appointed by the mayor, with the advice and consent of the city council. (Ord. 04-10, 8-3-2004)

1-7G-2: APPOINTMENT AND SELECTION GENERALLY: The mayor shall appoint, with the consent of the city council, a person who shall be responsible for the proper and efficient administration of the office of the attorney department of the city. This position shall be appointed solely on the basis of qualifications and shall not be limited by reason of former residence. (Ord. 04-10, 8-3-2004)

1-7G-3: OATH; BOND: The city attorney shall take an oath or affirmation to support the constitution of the United States, the constitution and laws of the state and faithfully perform the duties of his office in conformance with New Mexico Statutes Annotated section 3-10-2; and within ten (10) days of such oath or affirmation, shall furnish a surety bond to the governing body in the amount prescribed by the governing body or recommended by the city auditor. The city shall pay for the surety bond. (Ord. 04-10, 8-3-2004)

1-7G-4: COMPENSATION: The city attorney shall receive such compensation as allowed in the city classification and pay plan as adopted by the governing body and as may be amended by the governing body from time to time. (Ord. 04-10, 8-3-2004)

1-7G-5: GENERAL STATEMENT OF DUTIES: Under the general direction of the mayor and city council, performs a variety of complex, high level administrative, technical and professional work in prosecuting crimes, conducting civil lawsuits, drawing up legal documents, advises city officials as to legal rights and obligations, and practices other phases of applicable local, state and federal laws. (Ord. 04-10, 8-3-2004)

1-7G-6: ESSENTIAL DUTIES AND RESPONSIBILITIES:

A. Manages and supervises the city attorney's department to achieve goals within available resources; plans and organizes workloads and staff assignments; trains, motivates and evaluates assigned staff; reviews progress and directs changes as needed, when necessary.

B. Provides leadership and direction in the development of short and long range plans; gathers, interprets, and prepares data for studies, reports and recommendations; coordinates legal department activities with other departments and agencies as needed. Confers with colleagues with specialty in area of law to establish and verify basis for legal proceedings; serves as a liaison between outside legal counsel and city officials on specialized legal issues. Prepares a variety of studies, reports and related information for decision making purposes.

C. Provides professional advice to the mayor, city council and department heads; makes presentations to councils, boards, commissions, civic groups and the general public. Advises city officials of changes to state or federal laws affecting city operations. Interprets laws, ruling and regulations for city officials and staff.

D. Communicates official plans, policies and procedures to staff and the general public. Performs general management duties for the mayor as assigned.

E. Attends all meetings of the council or administration at which attendance may be required. Advises the mayor and city council of legal conditions and current and future trends; issues legal opinions.

Prepares and submits to the mayor and council such reports as may be required by that body or as the city attorney may deem it advisable to submit.

F. Approves ordinances, resolutions and contracts as to legal form; provides legal advice as to substance. Drafts ordinances, resolutions, contracts, agreements, deeds, leases, franchises, etc.; reviews documents prepared by other agencies or parties. Assists department directors to see that all laws and ordinances are faithfully performed.

G. Represents the city in court and before quasi-judicial or administrative agencies of government. Prepares legal briefs, develops strategy, arguments and testimony in preparation for presentation of case. Files brief with court. Gathers evidence in civil, criminal, and other cases to formulate defense or to initiate legal action. Conducts research, interviews clients, and witnesses and handles other details in preparation for trial. (Ord. 04-10, 8-3-2004)

1-7G-7: QUALIFICATIONS AND JOB DESCRIPTION: Graduation from an accredited law school with a juris doctor degree in law, and a minimum of two (2) years' experience as a practicing attorney, with general government experience preferred. Must possess a license to practice law in the state of New Mexico and be a member in good standing of the state bar association. Must possess and maintain a valid driver's license. Must not have a conflict of interest that might preclude performance of any duty on behalf of the city. Must be able to pass

background investigation and must be clear of any felony conviction.

A. Knowledge, Abilities, Skills And Other Characteristics:

1. Knowledge of modern policies and practices of municipal law and public administration.

2. Knowledge of state statutes relating to municipal affairs relating to the purchase of goods and services, contracting, labor, employment, land use, environment and traffic.

3. Oversees prosecution of civil or criminal cases in city, county, or state court.

4. Gathers and analyzes evidence in cases and reviews pertinent decisions, policies, and regulations and other legal matters pertaining to cases.

5. Prepares petitions for sewer and street improvement and forms of easements, bonds, complaints, notices and assessment proceedings.

6. Presents evidence against accused to grand jury for indictment or release of accused as required.

7. Studies and interprets state constitution, laws, court decisions, city charter, ordinances, etc.; to provide legal advice or opinions.

8. Provides legal advice and prepares formal legal opinions on broad range of issues for various city departments and law enforcement agencies.

9. Drafts ordinances, resolutions, petitions, deeds, leases, etc.

10. Prepares and issues complaints, warrants and subpoenas.

11. Assures that assigned areas of responsibilities are performed within budget; performs cost control activities; monitors revenues and expenditures in assigned area to assure fiscal control; prepares annual budget funds, personnel, materials, facilities, and time.

12. Determines work procedure, prepares work schedules, and expedites workflow; studies and standardizes procedures to improve efficiency and effectiveness of operations.

13. Coordinates the information gathered and work accomplished by his/her employees; assigns employees; assigns employees' projects as the needs arise for their specific skills.

14. Supervises and coordinates the preparation and presentation of an annual budget for the department; directs the implementation of the department's budget; plans for and reviews specifications for new and replaced equipment.

15. Handles grievances, maintains departmental discipline and the conduct and general behavior of assigned personnel. Maintains harmony among workers and resolves grievances; performs or assists subordinates in performing duties; adjusts errors and complaints.

16. Prepares and submits periodic reports to the mayor regarding the department's activities, and prepares a variety of the reports as appropriate.

B. Additional Duties: Perform additional duties as necessary or assigned. (Ord. 04-10, 8-3-2004)

1-7G-8: SERVES AT PLEASURE OF GOVERNING BODY: The city attorney serves at the pleasure of the governing body and may, subject to the terms of any written employment contract, be removed by the governing body at any time with or without cause. (Ord. 04-10, 8-3-2004)

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ARTICLE H. CHILD AND FAMILY DEVELOPMENT DIRECTOR
SECTION:

1-7H-1: Office Created; Appointment
1-7H-2: Appointment And Selection Generally
1-7H-3: Oath; Bond
1-7H-4: Compensation
1-7H-5: General Statement Of Duties
1-7H-6: Essential Duties And Responsibilities
1-7H-7: Qualifications And Job Description

1-7H-1: OFFICE CREATED; APPOINTMENT: There is hereby created the office of the child and family development director, which for all purposes shall be considered a merit employee under the classification system as defined under and subjected to the general provisions of the city personnel rules and regulations. This office and subsequently this department is subject to grant funding and may be abolished due to a lack thereof. (Ord. 00-04, 6-20-2000)

1-7H-2: APPOINTMENT AND SELECTION GENERALLY: The mayor shall appoint, subject to the city's personnel rules and regulations policies, with the consent of the city council, a person who shall be responsible for the proper and efficient administration of the office of the child and family development department of the city. This position shall be selected in accordance to the city's personnel policy and shall not be limited by reason of former residence. (Ord. 00-04, 6-20-2000)

1-7H-3: OATH; BOND: The child and family development director shall take an oath or affirmation to support the constitution of the United States, the constitution and laws of the state and faithfully perform the duties of his/her office in conformance with New Mexico

Statutes Annotated section 3-10-2; and within ten (10) days of such oath or affirmation, shall furnish a surety bond to the governing body in the amount prescribed by the governing body or recommended by the city auditor. The city shall pay for the surety bond. (Ord. 00-04, 6-20-2000)

1-7H-4: COMPENSATION: The child and family development director shall receive such compensation as allowed in the city classification and pay plan as adopted by the governing body and as may be amended by the governing body from time to time. (Ord. 00-04, 6-20-2000)

1-7H-5: GENERAL STATEMENT OF DUTIES: Under the general direction of the mayor, the child and family development director is responsible for the planning, implementation and administration of the child and family development department and its relevant programs. The director's responsibility includes the gathering of relevant data to further the programs' objectives, in addition to acting as a resource tool and assessment instrument. This position is also responsible for developing, coordinating, implementing, and evaluating programs and initiatives in which the intent is to provide guidance and support for families and children within the city. (Ord. 00-04, 6-20-2000)

1-7H-6: ESSENTIAL DUTIES AND RESPONSIBILITIES:

A. Duties Enumerated:

1. Manages and supervises the child and family department to achieve goals within available resources; plans and organizes workloads and staff assignments; trains, motivates and evaluates assigned staff, reviews progress and directs changes as needed.

2. Provides leadership and direction in the development of short and long range plans; gathers, interprets, and prepares data for studies, reports and recommendations; coordinates department activities with other departments and agencies as needed.

3. Provides professional advice to the city officials; makes presentations to councils, boards, commissions, civic groups and the general public.

4. Communicates official plans, policies and procedures to staff and the general public.
5. Assures that assigned areas of responsibility are performed within budget; performs cost control activities; monitors revenues and expenditures in assigned area to assure sound fiscal control; prepares annual budget request; assures effective and efficient use of budget funds, personnel, materials, facilities, and time.
6. Determines work procedures, prepares work schedules, and expedites workflow; studies and standardizes procedures to improve efficiency and effectiveness of operations.
7. Issues written and oral instructions; assigns duties and examines work for exactness, neatness, and conformance to policies and procedures.
8. Maintains harmony among workers and resolves grievances; performs or assists subordinates in performing duties; adjusts errors and complaints.
9. Prepares a variety of studies, reports and related information for decision making purposes.
10. Develops policies and procedures for the department in order to implement directives from the mayor and the city council.
11. Coordinates the information gathered and work accomplished by his/her employees; assigns employees projects as the needs arise for their specific skills.
12. Supervises and coordinates the preparation and presentation of annual budget for the department; directs the implementation of the department's budget; plans for and reviews specifications for new or replaced equipment.
13. Oversees the training and development of department personnel.
14. Handles grievances, maintains departmental discipline and the conduct and general behavior of assigned personnel.
15. Prepares and submits periodic reports to the mayor regarding the department's activities, and prepares a variety of other reports as appropriate.

16. Attends conferences and meetings to keep abreast of current trends in the field; represents the community development department in a variety of local, county, state and other meetings according to city personnel policies.
17. Attends all regular meetings of the city council; attends special meetings of the city council, departments, or administration at which attendance may be required.
18. Represents the city at civic, community, and government meetings.
19. Presents, coordinates, and interacts with the diverse entities, individuals, and the general public to find relevant solutions.
B. Additional Duties: Perform additional duties as necessary or assigned. (Ord. 00-04, 6-20-2000)
1-7H-7: QUALIFICATIONS AND JOB DESCRIPTION: The following shall apply to the child and family development director:
A. Education And Experience:
1. Bachelor's degree in early childhood education, child development or related field (preferably a master's degree).
2. Four (4) years' administrative experience or equivalent in upper education (preferably with 2 years community development experience).
3. Bilingual (in English and Spanish).
B. Skills, Abilities And Certificates:
1. Knowledge of the principles, practices and methods of child and family development, early childhood, planning and research activities.
2. Knowledge of grants, proposal writing and administration.

3. Ability to establish an effective administration.
4. Public relations abilities required.
February 2002
City of Sunland Park
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1-7H-7 1-7H-7
5. Ability to develop, implement and evaluate individual initiatives and programs.
6. Knowledge in administration. C. Environmental/Physical Conditions:
1. Work is primarily in an office.
2. Fieldwork is required. (Ord. 00-04, 6-20-2000)
February 2002
City of Sunland Park
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1-71-1 1-71-3
CHAPTER 7
CITY OFFICERS AND EMPLOYEES
ARTICLE I. FINANCE DIRECTOR
SECTION:

1-71-1: Office Created; Appointment
1-71-2: Appointment And Selection Generally
1-71-3: Oath; Bond
1-71-4: Compensation
1-71-5: General Statement Of Duties
1-71-6: Essential Duties And Responsibilities

1-71-1: OFFICE CREATED; APPOINTMENT: There is hereby created the office of the finance director which shall be appointed by the mayor, with the advice and consent of the city council. (Ord. 04-12, 8-3-2004)

1-71-2: APPOINTMENT AND SELECTION GENERALLY: The mayor shall appoint, with the consent of the city council, a person who shall be responsible for the proper and efficient administration of the office of the finance director of the city. This position shall be appointed solely on the basis of qualifications and shall not be limited by reason of former residence. (Ord. 04-12, 8-3-2004)

1-71-3: OATH; BOND: The finance director shall take an oath of affirmation to support the constitution of the United States, the constitution and laws of the state and faithfully perform the duties of his office in conformance with New Mexico Statutes Annotated section 3-10-2; and within ten (10) days of such oath or affirmation, shall furnish a surety bond to the governing body in the amount prescribed by the governing body or recommended by the city auditor. The city shall pay for the surety bond. (Ord. 04-12, 8-3-2004)
April 2005 City of Sunland Park
1-71-4 1-71-6

1-71-4: COMPENSATION: The finance director shall receive such compensation as allowed in the city classification and pay plans adopted by the governing body and as may be amended by the governing body from time to time. (Ord. 04-12, 8-3-2004)

1-71-5: GENERAL STATEMENT OF DUTIES: Under the general direction of the mayor and city council, the finance director serves as the city treasurer and performs the duties of municipal finance officer as set forth in chapter 3, article 37, New Mexico Statutes Annotated 1978. In addition, the finance director performs a variety of professional, administrative and highly technical duties in the area of city financing and accounting, and the maintenance of all accurate and true financial records of the city in conformance with appropriate federal, state and local laws. (Ord. 04-12, 8-3-2004)

1-71-6: ESSENTIAL DUTIES AND RESPONSIBILITIES: The finance director shall perform the following:

A. Manages and supervises the finance department to achieve goals within

available resources; plans, prioritizes and organizes workloads and staff assignments; trains, motivates and evaluates assigned staff, reviews progress and directs changes as needed, when necessary.

B. Provides leadership and direction in the development of short and long range plans; gathers, interprets, and prepares data for studies, reports and recommendations; coordinates finance department activities with other departments and agencies as needed. Confers with the city's independent accountants and auditors, as well as the state auditor and state department of finance and administration as needed. Prepares a variety of studies, reports and related information for decision making purposes.

C. Provides professional advice to the mayor, city council and department heads as it pertains to the area of city finances, makes presentations to councils, boards, commissions, civic groups and the general public.

D. Communicates official plans, policies and procedures to staff and the general public. Performs financial and accounting duties for the city administration as assigned.

E. Attends all meetings of the council or administration at which attendance may be required. Advises the mayor and city council of financial conditions and current and future trends. Prepares and submits to the mayor and city council such reports as may be required by that body or as the finance director may deem it advisable to submit.

F. Serves as the procurement officer for the city.

G. Serves as treasurer for the city and shall:

1. Receive all monies belonging to the city;
2. Keep city accounts and records in the manner prescribed by the governing body;
3. Keep the money of the city separate from any other money in his/her possession;
4. Expend the city money only as directed by the governing body;
5. Submit a monthly report of the receipts and expenditures of the city;
6. Prepare annually, at the close of the fiscal year, a financial report showing the receipts, expenditures and balances for each city fund. A copy of the annual financial report shall be filed in the office of the city clerk as a public document;
7. At the direction of the mayor, oversee and monitor the development and submission of the annual budget and prepare supporting justification for presentation of the annual budget to the city council;
8. In accordance with the provisions of the public records act, maintain the city's financial records for public inspection during regular business hours of the city;
9. Comply with the provisions of New Mexico Statutes Annotated 1978 section 3-37-1 et seq. (Ord. 04-12, 8-3-2004)

CHAPTER 7

CITY OFFICERS AND EMPLOYEES

ARTICLE J. MOTOR VEHICLE MANAGER

SECTION:

1-7J-1: Office Created
1-7J-2: Appointment and Selection Generally
1-7J-3: Oath; Bond
1-7J-4: Compensation
1-7J-5: Qualifications
1-7J-6: General Statement of Duties
1-7J-7: Essential Duties and Responsibilities
1-7J-8: Environment/Physical Conditions
1-7J-9: Serves at the Pleasure of the Mayor and Council in the Absence of a City Manager

1-7J-1: **OFFICE CREATED:** There is hereby created the office of the Motor Vehicle Manager for the Motor Vehicle Department of the City of Sunland Park. (Ord. 2013-11, 11-18-2013)

1-7J-2: **APPOINTMENT AND SELECTION GENERALLY:** The City Manager shall appoint a person who shall be responsible for the proper and efficient administration of the Motor Vehicle Department of the City of Sunland Park. The position shall be appointed solely based on qualifications and shall not be limited by reason of former residence. (Ord. 2013-11, 11-18-2013)

1-7J-3: **OATH; BOND:** The Motor Vehicle Manager shall take an oath or affirmation to support the Constitution of the United States, the constitution and Laws of the State of New Mexico and to faithfully perform the duties of said office in conformance with NMSA § 3-10-2; and within ten (10) days of such oath or affirmation; shall furnish a surety bond to the governing body in the amount prescribed by the governing body or recommended by the City Auditor. The City of Sunland Park shall pay for the surety bond. (Ord. 2013-11, 11-18-2013)

1-7J-4: **COMPENSATION:** The Motor Vehicle Manager of the Motor Vehicle Department shall receive such compensation as allowed by the City classification and pay plan as adopted by the Governing Body and may, from time to time be amended by the Governing Body. (Ord. 2013-11, 11-18-2013)

1-7J-5: **QUALIFICATIONS:**

A. The Motor Vehicle Manger shall possess a Bachelor's Degree in any field of study from an accredited college or university and five (5) years of professional level experience operating within the parameters and guidelines directly relate to the position. Any combination of education and experience with this occupation totaling nine (9) years may be substituted for the required education and experience.

B. Minimum Requirements:

1. Possess and maintain a valid New Mexico Driver's License, or equivalent license issued by another state including a current Defensive Driving Certificate from the State of New Mexico or pass and receive Defensive Driving Certification within six (6) months of the date of hire as a condition of continued employment.

2. Through knowledge of the responsibilities and functions of motor vehicle operations, including policies, laws and regulations, bookkeeping and accounting principles, general office procedures, some knowledge of computer operations; working knowledge and familiarity with the appropriate city ordinances and state and local statutes and regulations; and thorough knowledge of the organizational structure of City government.

3. Ability to work independently, to understand the purpose of standard procedure, rules and regulations and to follow them intelligently; to learn the fundamental elements of municipal government and the importance of adhering strictly to the law in the performance of duties.

4. Ability to communicate with the citizens of the City on a daily basis in a cheerful, helpful and positive manner.

5. Bilingual proficiency in the English and Spanish languages is desirable.

6. Ability to supervise paid staff and other assignees.

7. Knowledge of motor vehicle automation software.

8. Knowledge of personal computer software including but not limited to Windows and MS Office.

9. Ability to deal effectively and appropriately with representatives of public and private sector agencies in both state and federal levels.

10. Possession of valid driver license and clear driving record. (Ord. 2013-11, 11-18-2013)

1-7J-6: **GENERAL STATEMENT OF DUTIES:** Under the general duties of the Motor Vehicle Manager, is responsible for the planning, implementation, and administration of the Sunland Park Motor Vehicle Department. The position is generally responsible for developing, coordinating, implementing, and evaluating traditional and emerging programs and services that support the issuances of driver's license, title transfers, registration renewals within the state laws and regulations and policies of the State of New Mexico and the City of Sunland Park. (Ord. 2013-11, 11-18-2013)

1-7J-7: **ESSENTIAL DUTIES AND RESPONSIBILITIES:** The Motor Vehicle Manager shall:

A. Manage and supervise the Motor Vehicle Department to achieve goals with available resources; plan and organize workloads and staff assignments; train, motivate, and evaluate assigned staff, review progress, and direct change as needed;

B. Provide leadership and direction in the development of short and long-range plans; gather, interpret, and prepare data for studies. Reports, and recommends; coordinates department activities with other departments and agencies as needed;

C. Provide professional advice to City officials; make presentations to council, boards, commissions, civic groups, and the general public;

D. Communicate official plans, policies, and procedures to staff and the general public;

E. Assure that assigned areas of responsibility are performed within budget; perform cost control activities; monitor revenue and expenses in assigned area to assure sound fiscal control; prepares annual budget request; assures effective and efficient use of budget funds, personnel, materials, facilities, and time;

F. Oversee the operation and updating of the required department record keeping in areas such as payroll, employee files, purchase requisitions and other transactions;

G. Determine work procedures; Prepares work schedules and expedite workflow; study and standardize procedures to improve efficiency and effectiveness of operations;

H. Supervise assigned supervisory and non-supervisory personnel and schedule work to expedite flow and balance loads; assign duties, issue written and oral instructions; check work for service effectiveness, quality, acceptability, and policy and procedural conformance; guiding subordinates to overcome difficulties encountered, correct errors and rectify complaints; appraise

performance of direct reports and review employee ratings by subordinate supervisors, coach to motivate competency improvement and career advancement; arrange for or conduct internal orientation, job training, and employee development activities; enforce personnel rules and regulations, conduct, courtesy, attendance, appearance and safety standards; maintain harmony among employees, resolve applicable grievances; interview and recommend applicants for hiring; commend, transfer, discipline and terminate employees; changing staffing levels and job designs;

I. Issue written or oral instructions; assign duties and examine work for exactness, neatness, and conformance to City and State policies and procedures;

J. Maintain harmony among workers and resolve grievances; supervise and assist subordinates in performing duties; adjust errors and respond to complaints;

K. Prepare a variety of studies, reports, and related information for decision-making;

L. Develop policies and procedures for the Department in order to implement directives from the City Manager;

M. Coordinate the information gathered and work accomplished by her/his employees; assigns employees projects as the need arises for their specific skills;

N. Supervise and coordinate the preparation and presentation of an annual budget for the Department; direct the implementation of the Department's budget; plan for and review specifications for supplies, equipment, and materials;

O. Oversee the training and development of Department personnel;

P. Prepare and submits periodic reports to the City Manager regarding the Department's activities and prepare a variety of other reports as appropriate;

Q. Attend conferences and meetings to keep abreast of current trends in the field; represent the Motor Vehicle Department in a variety of local, county, state, and other meetings according to City personnel policies;

R. Attend all regular and special meetings of the City Council and other meetings as appropriate;

S. Represent the City and the Department at civic, community, and governmental meetings;

T. Make presentations to, coordinate, and interact with the diverse entities, individuals and general public to find relevant solutions;

U. Perform additional duties as necessary or assigned. (Ord. 2013-11, 11-18-2013)

1-7J-8: **ENVIRONMENT /PHYSICAL CONDITIONS:**

A. Work is primarily in an office setting, extensive personal computer, telephone usage but some travel and field work is required.

B. Work is performed under strict deadlines and high pressure and stressful situations in conformance with applicable laws of the Federal, state and city governments. (Ord. 2013-11, 11-18-2013)

1-7J-9: **SERVES AT THE PLEASURE OF THE MAYOR AND COUNCIL IN THE ABSENCE OF A CITY MANAGER:** The Motor Vehicle Manager serves at the pleasure of the Mayor and Council should the position of the City Manager be vacant, and may, subject to the terms of any written employment contract, be removed by such at any time with or without cause. (Ord. 2013-11, 11-18-2013)

CHAPTER 8
MUNICIPAL JUDGE
SECTION:
1-8- 1: Powers And Duties; Jurisdiction
1-8- 2: Qualification; Term Of Office
1-8- 3: Compensation And Expenses
1-8- 4: Bond And Oath
1-8- 5: Alternate Judge
1-8- 6: Vacancy
1-8- 7: Judicial Ethics And Standards
1-8- 8: Suspend And Defer Sentences And Grant Probation
1-8- 9: Traffic Fines Payable To Court Clerk
1-8-10: Records Kept
1-8-11: Court Personnel
1-8-12: Budget
1-8-13: Discharge Of Liability
1-8-14: Liberal Construction
1-8-1: POWERS AND DUTIES; JURISDICTION: The municipal judge shall serve as the judicial branch of the city and shall: (Ord. 1987-14, 7-28-1987)

A. Hear and decide only cases of persons duly accused by a duly authorized city officer, agent or employee or by any resident of the city, of violating a city ordinance. (Ord. 1991-10, 8-21-1991)

B. Dismiss or pass judgment upon all such cases heard.

C. Impose or suspend an appropriate sentence, as provided in section 1-4-1 of this title. (Ord. 1987-14, 7-28-1987; amd. 2000 Code)

D. Issue subpoenas and warrants to carry out the duties of the court.

E. Punish for contempt of court.

F. Maintain such records and issue such documents as are required by state statute or regulation of the administrative office of the courts of the New Mexico supreme court.

G. Not later than the tenth day of each month, submit to the governing body a written report of all monies collected during the previous month, which shall include an itemized statement of the amount collected, the purpose for which collected, the name of the person paying, and the date of payment.

H. Not later than the tenth day of each month, turn over to the city clerk-treasurer all monies collected the previous month.

I. Annually, unless exempted by the chief justice of the supreme court, complete a training course approved by the administrative office of the courts of the New Mexico supreme court.

J. Regularly schedule court hearings in the municipal court at such times as will least inconvenience all parties concerned. In the event that the judge does not provide for a reasonable schedule of hearings, the governing body shall establish a reasonable minimum schedule by ordinance.

K. Be able at all reasonable hours for the issuance of warrants and summons. (Ord. 1987-14, 7-28-1987)

1-8-2: QUALIFICATION; TERM OF OFFICE:

A. Qualified Elector; Residency: Each candidate for the office of municipal judge shall be a qualified elector residing within the city and if elected shall continually retain residence within the city throughout his term of office.

B. Term: The municipal judge shall be elected for a term of four (4) years at a regular municipal election. (Ord. 1987-14, 7-28-1987))

1-8-3: COMPENSATION AND EXPENSES:

A. Salary; Travel Expenses: Effective January 18, 2000, the municipal judge shall receive a salary of one thousand six hundred sixty seven dollars ($1,667.00) payable upon the first day of each calendar month. In addition, when the municipal judge must travel outside the city on official business, he or she shall be reimbursed for travel and

per diem in accordance with state statutory provisions. (Ord. 00-02, 1-18-2000)

B. Part Time Elected Official: The municipal judge is a part time elected city official and is not entitled to vacation, sick leave, holidays or other employee benefits granted full time city employees. He shall be granted benefits which may from time to time be granted to other part time city employees. (Ord. 1987-14, 7-28-1987)

1-8-4: **BOND AND OATH:** The municipal judge shall, before he enters the duties of office, if no corporate surety bond covering all city officials exists, execute a surety bond to the city in the amount of five thousand dollars ($5,000.00) conditioned upon the faithful performance of his duties and the paying over to the city of all fines, forfeited bonds and other money which comes into his hand by virtue of his office. The municipal judge shall take the oath of office as required in New Mexico Statutes Annotated section 3-10-2. (Ord. 1987-14, 7-28-1987; amd. 2000 Code)

1-8-5: **ALTERNATE JUDGE:**

A. Appointment: The mayor, with the advice and consent of the governing body, shall appoint a qualified elector of the city to serve as acting municipal judge in the absence or incapacity of the municipal judge.

B. Duties: The alternate municipal judge shall exercise all powers and perform all duties of the municipal judge until the return of the municipal judge.

C. Salary And Expenses: The alternate municipal judge shall receive compensation at the rate of seventy-seven dollars ($77.00) per day for each day worked and shall receive travel and per diem if official travel is approved by the governing body and when the costs of such travel and per diem have been budgeted as provided by law. (Ord. 1987-14, 7-28-1987; amd. Ord. 08-01, 4-29-2008)

1-8-6: **VACANCY:**

A. Office Declared Vacant: In the event that the municipal judge resigns, is removed, dies, or ceases residence within the city, the

mayor, with the advice and consent of the governing body, shall declare the office of the municipal judge vacant.

B. Appoint Temporary Replacement: The mayor, with the advice and consent of the governing body, shall appoint a qualified elector of the city to serve until the next regular city election, at which time a municipal judge shall be elected for a term of four (4) years. (Ord. 1987-14, 7-28-1987)

1-8-7: **JUDICIAL ETHICS AND STANDARDS:**

A. Compliance With State Guidelines: In trial proceedings, the municipal judge shall be guided by the rules of procedure for municipal courts and the New Mexico municipal benchbook issued by the New Mexico supreme court. In addition, the public and private actions of the municipal judge shall be governed by the code of judicial conduct issued by the New Mexico supreme court, except for those provisions specifically made nonapplicable to municipal judges.

B. Investigation And Removal: A municipal judge may be investigated and disciplined, removed or retired, by order of the supreme court upon recommendation of the judicial standards commission, as provided in article VI, section 32 of the New Mexico constitution and New Mexico Statutes Annotated sections 34-10-1 through 4. (Ord. 1987-14, 7-28-1987)

1-8-8: **SUSPEND AND DEFER SENTENCES AND GRANT PROBATION:**

When the municipal judge is satisfied that the public will be served and the ends of justice will be served, the municipal judge may:

A. Suspend in whole or in part the execution of sentence;

B. Place the defendant on probation for a period not exceeding one year on terms and conditions the court deems best, including, but not limited to, deferment of sentence,. making restitution, or performing community service; or

C. Impose any or all of the provisions of both subsections A and B of this section on the defendant. (Ord. 1987-14, 7-28-1987)

1-8-9: TRAFFIC FINES PAYABLE TO COURT CLERK: The Municipal Judge shall designate the specific offenses under the Traffic Code of the City (Title 6 of this Code), the fines for which may be accepted by the Clerk of the Municipal Court upon a plea of guilty and shall specify by suitable schedule the amount of such fines. (Ord. 1987-14, 7-28-1987)

1-8-10: RECORDS KEPT:

A. Records Sent To State: The Municipal Judge shall keep or cause to be kept a record of every traffic complaint, uniform traffic citation and other form of traffic charge filed in his Court and every official action and disposition of the charge by his Court. Within ten (10) days after disposition of the charge violating the Traffic Code of the City, the Municipal Judge shall, upon forms furnished by the Commissioner of Motor Vehicles, prepare, certify as correct, and forward to the State Department of Motor Vehicles an abstract of the record. A report need not be made of any conviction involving illegal parking or standing of a vehicle except when a uniform traffic citation is used. When the uniform traffic citation is issued, the form of the abstract on the back of the officer's first copy containing the above information shall be used.

B. Failure To Comply: The failure or refusal of the Municipal Judge to comply with the provisions of this Section is misconduct in office and grounds for removal. (Ord. 1987-14, 7-28-1987)

1-8-11: COURT PERSONNEL:

A. City To Provide Clerks: Pursuant to the recognized right of the Municipal Judge to control the Court personnel, the Governing Body hereby provides the Municipal Court a part-time clerk. Said clerk shall be a full-time person on the staff of the City and during such time as such person's services are necessary to assist the Municipal Judge, shall be under the control and supervision of the City Clerk-Treasurer.

B. Duties: The part-time clerical employee assistant provided to the Municipal Court shall report to, and be supervised by, the City Clerk-Treasurer and shall be responsible for assisting in the administrative work of the Court and shall keep his office open during hours designated by the City Clerk-Treasurer. The assistant shall also:

1. Receive fines and issue receipts therefor.
2. Receive and issue receipts for bail bonds.
3. Enter on the Court docket the time for appearance of all persons coming before the Court and notify the arresting officer to be present.
4. Notify the City Attorney of such violations and complaints as may be designated by the City Attorney.
5. Keep a record of all alleged violations of traffic ordinances together with a notation of final disposition. Such record shall indicate all types of offenses and the total of each type, and shall be maintained for a period of five (5) years.
6. Keep a record of all traffic accidents, warnings, arrests, convictions and complaints reported for each driver which shall be filed alphabetically under the name of the driver. Such record shall be available for use and information of the Police Department and City Attorney's office. (Ord. 1987-14, 7-28-1987)

1-8-12: BUDGET: Pursuant to recognized right of the Municipal Judge to personally present and justify the budget of the Municipal Court to the Governing Body, he shall do so during the time of the general City budget making process. (Ord. 1987-14, 7-28-1987)

1-8-13: DISCHARGE OF LIABILITY: Upon successful completion of the terms and conditions of probation, the defendant's liability for any fine or other punishment imposed shall be fully discharged. (Ord. 1987-14, 7-28-1987)

1-8-14: LIBERAL CONSTRUCTION: This Chapter shall be liberally

construed to effectuate the intent of the City to give the Municipal Judge wide discretion regarding probation, suspension and deferment. (Ord. 1987-14, 7-28-1987)

CHAPTER 9

FEES

SECTION:

1-9-1: Short Title
1-9-2: Purposes
1-9-3: Fee Schedule

1-9-1: **SHORT TITLE:** This chapter may be cited as the "Fees Ordinance of the City of Sunland Park." (Ord. 2005-02, 4-5-2005)

1-9-2: **PURPOSES:** The purpose of this chapter is to promote the best interests of the city and its inhabitants; that it is in the best interests of the city and its inhabitants that fees be charged to defray administrative costs for the processing of certain applications that benefit a limited number of people and the public at large; that certain products produced by the city benefit only a limited number of people and therefore the cost of these products should not be borne by its inhabitants. (Ord. 2005-02, 4-5-2005)

1-9-3: **FEE SCHEDULE:** Fees (to be established by city council resolution) are hereby established for the following products and services:

A. Annexation;

B. Appeal;

C. Conditional (special) use permit;

D. Variance;

E. Zone change;

F. Subdivision;

G. Summary subdivision;

H. Preliminary subdivision review;

I. Subdivision infrastructure review and inspection;

J. Parkland dedication or in-lieu of fee;

K. Water rights dedication;

L. Sign permit;

M. Mobile home blocking permit;

N. Zoning map;

O. Copy of master plan;

P. Copy of subdivision ordinance;

Q. Copy of zoning ordinance;

R. Copy service;

S. Notary Public service;

T. Business license;

U. Business license duplicate;

V. Business license penalty;

W. Street vendor license;

X. Zone clearance letter;

Y. Block wall permit;

Z. State Tax I.D. number;

AA. Building permit copies;

BB. Street map;

CC. Copies of minutes on tape;

DD. Other maps;

EE. Judicial education fee. (Ord. 2005-02, 4-5-2005; amd. Ord. 2009-05, 10-6-2009)

CHAPTER 10

CAMPAIGN FINANCE

SECTION:

1-10-1: Title
1-10-2: Definitions
1-10-3: Purpose and Intent
1-10-4: Printing or Publishing Campaign Material without Specifying Sponsor
1-10-5: Campaign Treasurer
1-10-6: Reporting
1-10-7: Report Filing Periods
1-10-8: Election Financial Records

1-10-1: **TITLE:** This Chapter may be cited as the "Campaign Finance Code". (Ord. 2017-2, 8-15-2017)

1-10-2: **DEFINITIONS:** The following words, terms, and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

CANDIDATE: An individual seeking election to the position of mayor, councilor or municipal judge at a regular or special election of the city.

CONTRIBUTION: A gift, proceeds from any fundraiser(s), subscription, loan, loan guarantee, advance, deposit, or contract agreement of money or anything of value or other obligation, including but not limited to, in-kind services or contributions, whether or not legally enforceable, made directly or indirectly, for the primary purpose of supporting or opposing a candidate for elective office or purpose of supporting a municipal question to a candidate or political committee. This does not include the value of services provided without compensation or unreimbursed personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate, political committee and/or municipal question.

ELECTION:	Any general or special municipal election in the city.
EXPENDITURE:	A payment, transfer, or distribution, or obligation or promise to pay, transfer, or distribute any money or other thing of value for the purpose of influencing the outcome of an election of a candidate or a municipal question, but does not include the candidate's or his/her immediate family's personal expenses.
GENERAL PURPOSE POLITICAL COMMITTEE:	A political committee other than a special purpose political committee.
MUNICIPAL QUESTION:	Any question that is placed upon a ballot for a general or special election by the registered voters of the city or the governing body.
PERSON:	Any individual, estate trust, receiver, conservative association, club, corporation, company firm, partnership, joint venture, syndicate, or entity.
POLITICAL COMMITTEE:	Every one or more persons who is/are selected, appointed, chosen, or associated for the purpose of, wholly or in part, supporting or opposing one or more candidates at any election or a municipal question, and includes political committees or similar organizations composed of employees or members of any corporation, labor organization, trade or professional association or any other similar group which raises, collects, expends or contributes money or any other thing of value for the purpose of supporting or opposing a candidate or a municipal question in a municipal election.
REPORTING INDIVIDUAL:	Every candidate, every treasurer of every political committee, every person or corporate officer whose purpose is to aid the candidate in the campaign for municipal office or a municipal question.
SPECIAL PURPOSE POLITICAL COMMITTEE:	A political committee making contributions to support or oppose one candidate or a municipal question, such contributions being limited to one special or one general election. (Ord. 2017-2, 8-15-2017)

1-10-3: **PURPOSE AND INTENT:** It is the public policy of the City of Sunland Park that:

A. Public confidence in municipal government is essential and must be promoted by all possible means;

B. Political campaign contributions and expenditures be fully disclosed to the public and that secrecy in the sources and application of such contributions be eliminated;

C. The public's right to know how political campaigns are financed far outweighs any right that political campaigns remain secret and private;

D. The public interest is served by encouraging the widest participation of the public in the electoral process by reducing the dependence of candidates on large contributions; and

E. This Chapter also applies to any contributions, expenditures by persons, or committees whose purpose is to encourage adoption or defeat of any candidate or municipal question submitted to the voters of the city. (Ord. 2017-2, 8-15-2017)

1-10-4: **PRINTING OR PUBLISHING CAMPAIGN MATERIAL WITHOUT SPECIFYING SPONSOR:** It is unlawful for any person, organization or political committee to publish, 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, 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. (Ord. 2017-2, 8-15-2017)

1-10-5: **CAMPAIGN TREASURER:**

A. Each candidate or any political committee subject to the financial restriction of Section 1-10-6B. of this Chapter shall have a designated campaign treasurer. A candidate or person may appoint himself/herself as campaign treasurer.

1. Political committees established to support or defeat a municipal ballot question shall file with the City Clerk, within thirty (30) business days after City Council authorizes the municipal question to be placed on a ballot.

B. The name, address, and telephone number of the campaign treasurer shall be filed with the City Clerk with his/her declaration.

C. The campaign treasurer shall keep a true and full record of all contributions and expenditures, to include:

1. The name and address of every contributor whose total contribution exceeds twenty-five dollars ($25.00);

2. The amount and form of every contribution;

3. A full record of all disbursements;

4. Receipts for all expenditures exceeding twenty-five dollars ($25.00), reflecting the purpose of each expenditure, and the date and method of payment; and,

5. A full record of all debt incurred.

D. Campaign records shall be preserved by the campaign treasurer or candidate for at least one (1) year after the date of the election for which the accounts are required to be kept. (Ord. 2017-2, 8-15-2017)

1-10-6: **REPORTING:**

A. Each candidate or campaign treasurer on behalf of the candidate, person, or committee shall file a campaign report with the city clerk on a form provided by the City Clerk.

B. It is unlawful for any political committee as defined in NMSA § 1-19-26L (2010) to engage in a political purpose as defined in NMSA § 1-19-26M (2010) to receive contributions or expend in excess of five hundred dollars ($500.00) in any calendar year or continue to receive or make any contributions or expend for any political purpose unless that political committee appoints and maintains a treasurer as required by this Chapter. Each treasurer shall comply with Sections 1-10-5 and 1-10-6 herein.

C. Each campaign report, which identifies any contributions and expenditures exceeding twenty-five dollars ($25.00), shall itemize each item and include:

1. The amount of contribution or expenditure or value of goods and services contributed;

2. The purpose of any contribution or expenditure and any in-kind contribution or in-kind expenditure;

3. The date of the contribution or expenditure;

4. The name and address of the person or entity from whom any cumulative contribution exceeding twenty-five dollars ($25.00) was received; and,

5. The name and address of the person or entity to whom any cumulative expenditure exceeding twenty-five dollars ($25.00) was made.

D. Anonymous contributions may not exceed twenty-five dollars ($25.00).

E. When the reporting individual is a candidate, the report shall include the expenditures and contributions of those political committees authorized by the candidate to expend and receive funds on behalf of his/her candidacy, and when the candidate files a report for the political committee, the treasurer thereof need not file a report of expenditures and contributions for the period of time covered in the candidate's report.

F. Each campaign report shall contain the total of all contributions and expenditures. Total contributions to the candidate shall not exceed two thousand three hundred dollars ($2,300.00) from any individual, political committee, or any other entity, except for a candidate's contribution or loan to their own campaign.

G. An itemized campaign report is required if the total contributions and expenditures received exceed two hundred fifty dollars ($250.00). A campaign report shall contain a written declaration, under oath, if neither the campaign contributions nor the expenditures exceed two hundred fifty dollars ($250.00).

H. Each campaign report shall contain a declaration that the campaign report has been prepared with all reasonable diligence and that it is true, complete, and correct.

I. Each campaign report shall be subscribed and sworn to by the candidate or a designated campaign treasurer.

J. It is the candidate's and political action committees' responsibility to be aware of the reporting requirements and penalties for violation thereof. (Ord. 2017-2, 8-15-2017)

1-10-7: **REPORT FILING PERIODS:**

A. Mandatory campaign reports include, but are not limited to, a full record of all debt incurred, which shall be filed during the following periods:

1. The first report shall be filed thirty-five (35) days before the election. The first campaign report shall contain a total listing of all contributions and expenditures to a candidate who intends to seek election.

2. If a candidate has not received any contributions or has not made any expenditures since the candidate's last report was filed with the City Clerk, the candidate shall only be required to file a statement of no activity, which shall be notarized, in lieu of a full report when the report would otherwise be due and shall not be required to file a full report until the next required filing date.

3. The second report shall be filed not later than 12:00 noon, fifteen (15) calendar days preceding the date of the election.

4. The third report shall be filed not later than thirty (30) days after an election for both certified and uncertified candidates. This is the final report for uncertified candidates.

5. A final report shall be filed any time after an election but no later than six (6) months after date of election if no debt remains.

6. Candidates having debt or contributions on hand in their campaign shall file a report one (1) year after an election and every six (6) months thereafter, so long as debt remains or contributions have not been exhausted. Once the debts and/or contributions are resolved, the candidate shall file a final report.

7. The City Clerk shall notify all candidates, via email, when a report is due at least ten (10) working days in advance.

B. By the date of the final report, any remaining contributions not expended on the campaign shall be disposed of, at the option of the candidate, by one (1) of the following methods:

1. Returned to the person(s) who made the contribution(s);

2. Placed in the City of Sunland Park's General Fund for future election costs;

3. Donated to a 26 U.S.C. 501(c)(3) organization as evidenced by certificate from the organization; or

4. Donated to another candidate seeking election to municipal office.

C. The final campaign report shall reflect the final disposition of such contributions.

D. Late filing:

1. If any candidate or campaign treasurer of a political committee fails to submit any required report to the City Clerk of expenditures and contributions by the deadlines outlined in this section, the candidate or campaign treasurer shall pay to the City of Sunland Park's General Fund, which designated for future election costs, the sum of fifty dollars ($50.00) per day for each regular working day until the complete report is filed up to a maximum of five hundred dollars ($500.00) or imprisonment for not more than ninety (90) days or both.

2. It is unlawful for a candidate or campaign treasurer of a political committee to knowingly and willfully file a false report of expenditures and contributions.

3. Any elected candidate who fails or refuses to file a report of expenditures and contributions in the manner within the time required by this Chapter shall not be issued a certificate of election until such candidate files the report of expenditures and contributions. (Ord. 2017-2, 8-15-2017)

1-10-8: **ELECTION FINANCIAL RECORDS:**

A. Upon being notified of the formation and existence of any political committee, the City Clerk shall furnish by registered mail to the chairman or moderator, or head of this committee a copy of the Campaign Finance Code, and identify the requirements for reporting contributions and expenditures by the committee as provided for in this Chapter. It is recognized that an affirmative duty rests on the officials of this committee to be aware of the provisions of the Campaign Finance Code, and accordingly, such officials shall prepare and file the required statements without a request from the office of the City Clerk.

B. Within ten (10) days of receipt of this registered notification from the City Clerk, the political committee shall prepare and file with the office of the City Clerk a statement signed by the head of the committee acknowledging receipt of the Campaign Finance Code, setting forth the following:

1. The exact name of the committee;

2. The official address (no P.O. boxes allowed) and phone number;

3. The membership and officials thereof; and,

4. An acknowledgment and receipt of a copy of the Campaign Finance Code and of the requirements regarding filing of reports. It is recognized that an affirmative duty rests on the officials of such political committee to be aware of the provisions of the Campaign Finance Code, and, accordingly, such officials shall prepare and file the required statements without a request from the office of the City Clerk.

C. All campaign finance reports and statements shall be open to inspection and/or audit by the City Clerk, his her designated representative, or the auditor for the City of Sunland Park.

D. The City Clerk shall create an electronic database for all campaign reporting required in this Chapter and make that information available for public inspection. (Ord. 2017-2, 8-15-2017)

TITLE 2

BOARDS AND COMMISSIONS

Subject Chapter

Planning And Zoning Commission 1
Library Advisory Board 2
Metropolitan Redevelopment Agency. 3

CHAPTER 1

PLANNING AND ZONING COMMISSION[1]

SECTION:

2-1-1: Membership; Appointment; Terms of Office; and Removal From Office
2-1-2: Powers and Duties
2-1-3: Organization and Meetings
2-1-4: Appeals

2-1-1: MEMBERSHIP; APPOINTMENT; TERMS OF OFFICE; AND REMOVAL FROM OFFICE:

A. The Commission shall consist of seven (7) members who shall be appointed by the Mayor with the consent of the City Council. Members shall be residents of the planning and platting jurisdiction of the City. The two (2) members may be drawn from the City's urbanized territory or from business owners who have a business in the City but do not reside in the City.

B. On the first Commission, a majority of the members shall be appointed for one- (1) year terms and the balance of the members shall be appointed for two- (2) year terms. Each subsequent term of a member on the Commission shall be for two (2) years or less in order to maintain the original staggering of terms of membership. A vacancy in the membership of the Commission shall be filled for the remainder of the unexpired term.

C. After a public hearing and for cause stated in writing and made part of the public record, the Mayor with the approval of the City Council may remove a member of the Commission. (Ord. 2016-1, 4-19-2016)

2-1-2: POWERS AND DUTIES:

The Commission shall have such powers and duties as are necessary to:

A. Fulfill and perform its functions, promote municipal planning, and carry out the purposes of NMSA 1978, §§ 3-19-1 through 3-19-12, as amended, which Sections are hereby incorporated by reference and made a part of this Chapter; and,

1. See Title 10, Chapter 3 of this Code, Zoning Board of Adjustment consists of Planning and Zoning Commission members.

B. Promulgate and enforce regulations governing the subdivision of land within the planning and platting jurisdiction of the City as provided by NMSA § 3-196 and §§ 3-20-1 through 3-20-16, as amended, which Sections are hereby incorporated by reference and made a part of this Chapter; and,

C. To promulgate and enforce regulations governing zoning within the platting and planning jurisdiction of the City as provided in NMSA 1978 §§ 3-21-1 through 321-11, as amended, which Sections are hereby incorporated by reference and made a part of this Chapter; and,

D. Perform such other functions as the City Council may from time to time grant to the Commission for the purpose of promoting health, safety, moral or general welfare of the City. (Ord. 2016-1, 4-19-2016)

2-1-3: **ORGANIZATION AND MEETINGS:** The following rules and regulations shall apply to:

A. Officers: The Commission shall elect one (1) of its members as chairman for a one (1) year term, and create and fill any other offices as it may deem appropriate.

B. Conduct of Business: The Commission shall adopt and publish such rules and regulations for the conduct of business as it deems appropriate.

C. Meetings: The Commission shall hold regularly scheduled meetings at least once a month. All meetings shall be held in accordance with the New Mexico Open Meetings Act.

D. Quorum: A quorum of the Commission shall be a majority of its members.

E. Records: A public record shall be kept of all transactions, findings, resolutions, determinations and actions of the Commission. All public records shall be open to inspection as provided by the Inspection of Public Records Act.

F. Reports: The Commission shall submit to the City Council at its regular monthly meeting a copy of the minutes of its monthly meetings.

G. Conflict of Interest: A Commission member having any potential conflict of interest on any policy, decision, or determination before the Commission shall disclose to each of the other members the nature of his potential conflict as provided by NMSA § 3-10-5, as amended, and by the New Mexico Government Conduct Act. The Disclosure shall be recorded in the Commission's minutes.

H. Penalty: Failure to disclose a conflict of interest shall be punishable by a fine not exceed five hundred dollars ($500.00) or by imprisonment not exceeding ninety (90) days or both a fine and imprisonment. (Ord. 2016-1, 4-19-2016)

2-1-4: **APPEALS:**

A. A person aggrieved by any decision of the Planning and Zoning Commission shall have the right to appeal the decision of the Planning and Zoning Commission to the City Council no later than twenty (20) days after the decision. The notice shall be filed with the Chairperson of the Commission and the Mayor of the City of Sunland Park. The notice shall specify the grounds for the appeal and the relief requested. Upon receipt of the notice, the Commission shall submit the record of the proceedings being appealed to the City Clerk.

B. A person aggrieved by the determination of the City Council after its review of the Planning and Zoning Commission's decision may appeal the City Council's decision to the Third Judicial District Court as allowed by NMSA § 39-1-1.1.

C. The City Council may determine it is necessary to form a Board of Adjustment to hear appeals from the Planning and Zoning Commission. In the event of such a determination, the City Council shall adopt an ordinance delegating its authority to hear appeals from the Planning and Zoning Commission to the Board of Adjustment. (Ord. 2016-1, 4-19-2016)

CHAPTER 2

LIBRARY ADVISORY BOARD

SECTION:

2-2-1: Establishment Of Library
2-2-2: Creation Of Library Advisory Board
2-2-3: Advisory Board Membership
2-2-4: Officers
2-2-5: Duties Of Officers
2-2-6: Duties And Responsibilities Of The Library Advisory Board
2-2-7: Advisory Board Meetings
2-2-8: Library Personnel
2-2-9: Director of Library

2-2-1: **ESTABLISHMENT OF LIBRARY:** There is hereby established in the city of Sunland Park a free access community library known as the "Sunland Park community library". Such library is hereby declared to be a proper and legitimate object of expenditure and operation within the city of Sunland Park.

There is hereby created within the municipal budget of the city of Sunland Park, a library fund which shall be administered by the city clerk-treasurer as are other funds of the city. The city will initially supply this account with monies for library materials on the following schedule in accordance with the basic requirements of the state library of New Mexico for developing libraries (rule 93-1):

Year 1	$ 200.00
Year 2	400.00
Year 3	600.00
Year 4	800.00
Year 5	1,000.00

(Ord. 01-03, 6-5-2001)

2-2-2: **CREATION OF LIBRARY ADVISORY BOARD:** An advisory board is hereby created for the city of Sunland Park

community library, hereinafter referred to as the "library advisory board", and shall act in an advisory capacity, representing their respective districts and appointed by the mayor and city council. The library advisory board will serve to assist the Library Director to ensure proper and efficient administration of operational policies and procedures. (Ord. 01-03, 6-5-2001; amd. Ord. 2006-03, 4-4-2006)

2-2-3: **ADVISORY BOARD MEMBERSHIP:** The library advisory board shall consist of seven (7) board members appointed by the governing body of the city of Sunland Park. The mayor and each member of the city council will appoint a board member, each representing their respective community districts. The library advisory board members will serve for two (2) years with a term limit of two (2) consecutive terms. Each member shall remain in office until a successor is appointed. In the event of a vacancy on the board due to resignations, removal, or death, and otherwise, the mayor, giving consideration to the recommendation of the library board, shall appoint the successors to the board to serve the remainder of the regular term.

No member of the library advisory board shall be removed from office except for sufficient cause and by two-thirds (2/3) vote of the entire membership. All library advisory board members shall serve without compensation. (Ord. 01-03, 6-5-2001)

2-2-4: **OFFICERS:** The library advisory board when first appointed shall meet and organize their body by electing one of their members as chair, another as vice chair, another as secretary. Board members shall follow the "Robert's Rules Of Order" in conducting their business meetings. (Ord. 01-03, 6-5-2001)

2-2-5: **DUTIES OF OFFICERS:** The chair of the board shall preside at all meetings. The vice chair shall act and serve in his/her place at all times when the chair is unable to perform his/her duties. The secretary shall keep a complete and accurate record of all matters of the library board. (Ord. 01-03, 6-5-2001)

2-2-6: **DUTIES AND RESPONSIBILITIES OF THE LIBRARY ADVISORY BOARD:** The library advisory board shall have no authorization or power over the governance of the Sunland Park community library and its staff. The board will serve only in an advisory capacity to the Library Director, and shall:

A. Give advice on problems relating to the library;

B. Recommend such plans and programs as will best promote the library;

C. Work with the library administration and the mayor in developing the library;

D. Investigate and consult with any agency that may aid or assist in the growth of the library; and

E. Recommend bylaws, rules and regulations for the operation of the library. (Ord. 01-03, 6-5-2001; amd. Ord. 2006-03, 4-4-2006)

2-2-7: **ADVISORY BOARD MEETINGS:** The library advisory board shall meet on a regular basis at least four (4) times throughout the year. Meeting dates shall be designated by the library advisory board, provided, however, that special meetings may be called at any time upon written request by three (3) members of the library board to the chair, or by the Library Director and with written notice to all members. (Ord. 04-06, 4-6-2004; amd. Ord. 2006-03, 4-4-2006)

All meetings whether regular or special shall be open to the public and subject to the open meetings act of the state of New Mexico, and in accordance with city of Sunland Park policies and procedures. A majority of the whole membership of the library advisory board shall constitute a quorum and no action can be had in the absence of a quorum present of the library advisory board. (Ord. 01-03, 6-5-2001)

2-2-8: **LIBRARY PERSONNEL:** Duly qualified staff shall be hired to operate and maintain the Sunland Park community library. The library advisory board shall ensure that the Library Director meets the qualifications required by the state library of New Mexico (grade I certification) as a minimum. The library advisory board shall establish qualifications for library personnel and make recommendations to the mayor as to library personnel. (Ord. 01-03, 6-5-2001; amd. Ord. 2006-03, 4-4-2006)

2-2-9: **DIRECTOR OF LIBRARY:**

A. Office Created: There is hereby created the office of the Director of Library of the City of Sunland Park Community Library.

B. Appointment and selection generally: The City Manager shall appoint a person who shall be responsible for the proper and efficient administration of the Sunland Park Community Library of the City of Sunland Park. The position shall be appointed solely based on qualifications and shall not be limited by reason of former residence.

C. Oath; Bond: The Director of Library shall take an oath or affirmation to support the Constitution of the United States, the constitution and Laws of the State of New Mexico and to faithfully perform the duties of said office in conformance with NMSA § 3-10-2; and within ten (10) days of such oath or affirmation; shall furnish a surety bond to the governing body in the amount prescribed by the governing body or recommended by the City Auditor. The City of Sunland Park shall pay for the surety bond.

D. Compensation: The Director of Library shall receive such compensation as allowed by the City classification and pay plan as adopted by the Governing Body and may, from time to time be amended by the Governing Body.

E. Qualifications:

1. Education and Experience:

a. The Director of Library shall possess at least a Bachelors' Degree in Library and Information Studies, Library and Information Science, (or closely related degree), preferred Master's Degree in Library and Information Science from an ALA-accredited program;

b. Must possess or be willing to obtain a New Mexico State Library Permanent Professional Certification;

c. Three (3) years of experience in a library with at least two (2) years in supervisory or managerial roles;

d. Bilingual in English and Spanish, preferred.

2. Minimum Requirements:

a. Knowledge of the principals, practices, and methods of Librarianship.

b. Ability to provide references and reader advisory to individuals and small groups in formal and informal settings.

c. Ability to design, conducts, and evaluates library programs for children, youth, and adults.

d. Knowledge of grant and proposal writing and administration.

e. Ability to supervise paid staff, volunteers, and other assignees.

f. Knowledge of library automation software.

g. Knowledge of personal computer software including but not limited to Windows and MS Office.

h. Ability to deal effectively and appropriately with representatives of public and private sector agencies including but not limited to schools, boards, commissions, businesses, and others.

i. Possession of valid driver license and ability to drive a vehicle to conduct outreach and promotion.

F. General Statement of Duties: Under the general duties of the City Manager, the Director of Library of the Sunland Park Community Library is responsible for the planning, implementation, and administration of the Sunland Park Community Library and its programs and services. The Director's responsibility includes the gathering of relevant data to further program objectives and goals. The position is generally responsible for developing, coordinating, implementing, and evaluating traditional and emerging programs and services that support for reading, literacy, community advocacy, and life-long learning.

G. Essential Duties and Responsibilities: The Director of the Library shall:

1. Manage and supervise the Sunland Park Community Library to achieve goals with available resources; plan and organize workloads and staff assignments; train, motivate, and evaluate assigned staff, review progress, and direct change as needed;

2. Provide leadership and direction in the development of short and long-range plans; gather, interpret, and prepare data for studies. Reports, and recommends; coordinates department activities with other departments and agencies as needed;

3. Provides professional advice to City officials; make presentations to council, boards, commissions, civic groups, and the general public;

4. Communicates official plans, policies, and procedures to staff and the general public;

5. Assures that assigned areas of responsibility are performed within budget; performs cost control activities; monitor revenue and expenses in assigned area to assure sound fiscal control; prepare annual budget request; assure effective and efficient use of budgeted funds, personnel, materials, facilities, and time;

6. Determines work procedures; prepare work schedules and expedite workflow; standardize procedures to improve efficiency and effectiveness of operations;

7. Issue written or oral instructions; assign duties and examine work for exactness, neatness, and conformance to policies and procedures;

8. Maintain harmony among workers and resolve grievances; perform or assist subordinates in performing duties; adjust errors and respond to complaints;

9. Prepare a variety of studies, reports, and related information for decision-making;

10. Develop policies and procedures for the Department in order to implement directives from the City Manager;

11. Coordinate the information gathered and work accomplished by her/his employees; assign employees projects as the need arises within their specific skills;

12. Supervise and coordinate the preparation and presentation of an annual budget for the Department; direct the implementation of the Department's budget; plan for and review specifications for supplies, equipment, and library materials;

13. Oversees the training and development of Department personnel;

14. Handle grievances, maintain Department discipline, and promote the proper conduct and behavior of library personnel;

15. Prepares and submits periodic reports to the City Manager regarding the Department's activities and prepare a variety of other reports as appropriate;

16. Attend conferences and meetings to keep abreast of current trends in the field; represents the Library Department in a variety of local, county, state, and other meetings as directed by the City Manager;

17. Attend all regular meetings and special meetings of the City Council and other meetings as appropriate;

18. Present, coordinate, and interact with the diverse entities, individuals and general public to find relevant solutions;

19. Attend meetings of the Library Board; and

20. Perform additional duties as necessary or assigned.

H. Environment/Physical Conditions:

1. Availability for evenings and Saturday work as needed.

2. Will work primarily in the Library.

3. Ability to perform without accommodation moderate lifting, reaching, stooping, and bending to shelve, move, retrieve library items and other materials, lifting and moving boxes of library items weighing up to twenty-five (25) pounds, and using a telephone and other office equipment.

4. Fieldwork may be required.

I. Serves at the Pleasure of the Mayor and Council in the Absence of a City Manager: The Director of Library serves at the pleasure of the Mayor and Council should the position of the City Manager be vacant, and may, subject to the terms of any written employment contract, be removed by such at any time with or without cause. (Ord. 01-03, 6-5-2001; amd. Ord. 2006-03, 4-4-2006; Ord. 2013-07, 11-5-2013)

CHAPTER 3

METROPOLITAN REDEVELOPMENT AGENCY

SECTION:

2-3-1: Metropolitan Redevelopment Agency Established
2-3-2: MRA Governing Body; Powers and Duties
2-3-3: Annual Report/Audit
2-3-4: Mayor's Duties
2-3-5: MRA Governing Body; Compensation
2-3-6: Limitations on Powers of the MRA Governing Body

2-3-1: **METROPOLITAN REDEVELOPMENT AGENCY ESTABLISHED:** In the interest of efficiency, the governing body chooses to select the mechanism of an agency (hereinafter referred to as the Metropolitan Redevelopment Agency) which shall operate pursuant to this Chapter which is hereby declared to be non-repealable and not subject to amendment so long as any MRA bond remains unredeemed. (Ord. 2012-05, 12-5-2012)

2-3-2: **MRA GOVERNING BODY; POWERS AND DUTIES:**

A. In the interest of efficiency, the Mayor shall appoint with the advice and consent of the City Council an advisory committee which shall function as the Board of Commissioners (hereinafter referred to as the MRA governing body) of the MRA. The MRA shall have and exercise all powers of the City of Sunland Park and may exercise such powers in the same manner as though the powers were conferred on the MRA instead of the City of Sunland Park.

B. The Mayor shall designate a chairman and vice chairman from among the members of the Committee.

C. The MRA governing body may employ and determine the qualifications, duties and compensation of an executive director, technical experts and such other agents and employees, permanent and temporary, as the MRA may require. For such legal services as the MRA may require, in the interest of efficiency the MRA governing body may only employ or retain for the MRA legal counsel or legal staff Counsel to the City of Sunland Park or the City legal staff.

D. MRA may not budge any funds for expenditures or incur any obligations for expenditure of public funds except on approval of a budget by the City Council and the Local Government Division of the Department of Finance and Administration (LGD/DFA) except that MRA may solicit and accept personal

or in kind goods or services from any source for purposes of startups while it is arranging for funding.

E. The City Council hereby declares its intent to seek approval of LGD/DFA for funding MRA out of the Border Crossing Fund which is appropriate because one mission of the MRA is to create a source of financing for public infrastructure for the proposed International Border Crossing. (Ord. 2012-05, 12-5-2012)

2-3-3: **ANNUAL REPORT/AUDIT:** The MRA shall file annually with the City Council a report of its activities for the preceding fiscal year, which report shall include a complete financial statement setting forth its assets, liabilities, income and operating expenses as of the end of such fiscal year. The MRA shall be subject to the annual audit requirements of the State Auditor and its governing body shall comply with the Open Meetings, Inspection of Public Records, Procurement, Per Diem and Mileage and Public Funds Acts. (Ord. 2012-05, 12-5-2012)

2-3-4: **MAYOR'S DUTIES:** In the interest of efficiency, the Mayor shall serve as the Executive Director of the MRA until a Director is employed by the Committee. (Ord. 2012-05, 12-5-2012)

2-3-5: **MRA GOVERNING BODY; COMPENSATION:**

A. The MRA governing body shall consist of five (5) individuals initially appointed to serve staggered terms as follows from the date of their appointment:

1. Two (2) members for three- (3) year terms;

2. Two (2) members for two- (2) year terms; and

3. One (1) member for a one- (1) year term.

Thereafter, members of the MRA governing body shall be appointed for terms of five (5) years each.

B. An MRA governing body member shall receive no compensation for services to the MRA but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties. Each member of the MRA governing body shall hold office until his successor has been appointed and qualified. A certificate of the appointment or reappointment of any member of the MRA governing body shall be filed with the City Clerk and the certificate shall be conclusive evidence of the due and proper appointment of the member of the MRA governing body. A member of the MRA governing body may with or without cause be removed from office at any time by the Mayor.

C. The powers of the MRA shall be exercised by the MRA governing body. A majority of the appointed MRA governing body shall constitute a quorum for the purpose of conducting business and exercising the powers of the agency and for all other purposes. Action may be taken by the agency upon a vote of a majority of the MRA governing body present at a lawful meeting, unless in any case the bylaws shall require a larger number.

D. Monthly, a summary of all activities of MRA staff and contracted professionals shall be submitted to the Mayor and City Council as well as the minutes of the last meeting of the MRA governing body. Except on majority vote of the City Council supported by substantial evidence supporting a finding that such MRA activities were done arbitrarily, capriciously or not in compliance with the redevelopment law, such MRA activities shall be deemed approved as if performed fully within the authority of the City Council. (Ord. 2012-05, 12-5-2012)

2-3-6: **LIMITATIONS ON POWERS OF THE MRA GOVERNING BODY:** With respect to the following powers, the City Council retains onto itself the power to:

A. Acquire, whether by construction, purchase, gift, devise, lease or sublease; to improve and equip; and to finance, sell, lease or otherwise dispose of one (1) or more projects or part thereof.

B. Issue revenue bonds as provided by the Metropolitan Redevelopment Code (NMSA §§ 3-60A-1 to 3-60A-13, 3-60A-14 to 3-60A-48) to finance or acquire projects within the City and within a metropolitan redevelopment area;

C. Enter into financing agreements with others for the purpose of providing revenues to pay the bonds authorized by the Redevelopment Bonding Law (NMSA §§ 3-60A-26 to 3-60A-46); to lease, sell or otherwise dispose of any or all of its projects to others for such revenues and upon such terms and conditions as the City Council may deem advisable; and to grant options to renew any lease or other agreement with respect to the project and to grant options to buy any project at such price as the City Council deems desirable;

D. Issue revenue bonds for the purpose of defraying the cost of financing, acquiring, improving and equipping any project, including the payment of principal and interest on such bonds for a period not to exceed three (3) years and all other incidental expenses incurred in issuing such bonds; and

E. Secure payment of such bonds as provided in the Redevelopment Bonding Law. (Ord. 2012-05, 12-5-2012)

TITLE 3

BUSINESS AND LICENSE REGULATIONS

Subject	Chapter
Business Registration And Licensing.	1
Municipal Occupation Taxes.	2
Liquor Control.	3
Home Occupations.	4
Distress Sales.	5
Economic Development Plan.	6
Street Vendors.	7

CHAPTER 1

BUSINESS REGISTRATION AND LICENSING

SECTION:

3-1-1: Definitions
3-1-2: Business Registration
3-1-3: Business Licensing
3-1-4: Revocation Of License
3-1-5: Effect Of Other Licensing Provisions
3-1-6: Penalty

3-1-1: DEFINITIONS: Unless the context clearly indicates that a different meaning is intended, the words and phrases used shall have the following meanings:

AMUSEMENT HALL: Any arcade, building or premises having as its BUSINESS: primary business the providing of mechanical or electronic amusement devices, including, but not limited to, the following: pinball machines, electronic or video games of skill or chance, claw or scoop machines, jukeboxes, or coin-operated table games. Any establishment having less than three (3) mechanical or electronic amusement devices shall not be defined as "amusement hall" for the purpose of this Chapter.

Any profession, trade or occupation and all and every thing of calling whether or not carried on for profit, except those organizations exempt from the Federal income tax pursuant to section 501(c)(3) of the United States Internal Revenue Code, as amended or renumbered; provided however, "business" shall include an "unrelated trade or business" of such organizations as the latter terms are defined in section 513 of the

United States Internal Revenue Code of 1954, as amended or renumbered.

BUSINESS LICENSE: The authorization to conduct a business from a CANVASSER, permanent physical location, as described in SOLICITOR OR Section 3-1-2 of this Chapter.

PEDDLER: Persons who sell either goods or services or goods for the purpose of resale without a permanent physical location within the City. This shall include temporary stands and door-to-door sales. This does not include the activities of persons who sell solely to other businesses.

COMMUNITY-WIDE A community celebration which, by long EVENT: standing custom or by mayoral proclamation, is characterized by outdoor and indoor retail special sales throughout the community.

CONDUCT; CARRY ON:
KIDDY RIDE CARNIVAL AND EXHIBITS:
OUTDOOR SPECIAL EVENT:

Engage in, carry on, own, maintain, manage or operate any business, trade, art, profession, calling, employment, occupation or any commercial, industrial or professional pursuit, vocation or enterprise in this City.

Any carnival or exhibits consisting exclusively of rides and exhibits for children

with no amusement devices other than such rides, nor games of chance or skill, and not operating past the hour of one o'clock (1:00) A.M.
A temporary sales event of not more than three (3) days by an individual business or group of businesses held outdoors and adjacent to the building or buildings from which the sales are normally conducted.
PLACE OF BUSINESS: Any location, building or portion thereof, or premises in which or from which a business is carried on. The term includes, but is not limited to, an office, warehouse, yard, location where books and records are kept, the location from which business is solicited.
City of Sunland Park

RED TAG:	A notice located on a business establishment to notify the general public that the business or building is hazardous to the health, safety and welfare of the occupant or the community. Business may not be conducted until the public hazard is removed from the premises, or a hearing is held to consider revocation of permit.
RUMMAGE SALE:	The sale of used goods or hand-crafted goods donated to or by a church, school or fraternal organization or preschool exempt from taxation as nonprofit, conducted on the premises of the entity involved.
SPECIAL EVENT:	An event for business or community promotion sponsored by one or more businesses or organizations for a period not to exceed two (2) weeks, where the promoter or promoters provide adequate parking, private patrol officers or police protection, and a list of participants to the City Clerk-Treasurer. The term includes arts and crafts fairs, producers or farmers' markets, animal shows, automobile shows and the like, and outdoor sales at community-wide events.
TEMPORARY OUTSIDE DISPLAYS AND SALES:	The display or sale of goods or merchandise not in or from an enclosed permanent building to be conducted for a limited period of time, subject to the provisions of the Zoning Ordinance (Title 10 of this Code). The restricted time period does not apply to fireworks sales during the allowable sales periods. Fireworks are permitted to be sold from temporary outside display and sales areas during the time period defined by the fireworks ordinance (Title 4, Chapter 5 of this Code).
TENT SALES OR ACTIVITIES:	"Tent sales" are those under a canopy, temporary structure, enclosure or shelter constructed of fabric or pliable material. Tents, canopies and temporary membrane structures shall not be used for a period of more than one hundred eighty (180) days within a twelve (12) month period on a single premises.

YARD SALES: The sale of household personal property at sales identified as yard sales, garage sales, moving sales, etc. Such sales are permitted no more than five (5) times per year. There is no charge for this type of outdoor sale. (Ord. 1997-06, 12-8-1997; amd. 2000 Code)

3-1-2: **BUSINESS REGISTRATION:**

A. Purpose: The purpose of this Section is to provide for the registration of businesses within the City.

B. Business Registration Fee:

1. Prorating Prohibited: Business registration fees shall not be prorated.

2. Registration Fees: The business registration fee shall be set by City Council resolution. (Ord. 2005-02, 4-5-2005)

C. Exemptions:

1. No business registration fee shall be imposed on any business which is licensed as a business pursuant to New Mexico Statutes Annotated section 3-38-1, and as listed in the schedule in subsection 3-1-3E of this Chapter. Any person who operates under the same name, two (2) or more businesses, one or more of which requires a business license and one or more of which does not require a business license, shall obtain a separate registration or license and shall pay a separate fee for each business.

2. Those businesses which are otherwise exempt by law.

3. A person who is a sanctioned and registered athletic official who officiates for any association or organization which regulates any public school activity and whose rules and regulations are approved by the State Board of Education.

4. A business which has no place of business located inside the boundaries of the City even though the business may do business within the City.

D. Term Of Registration: A business registration is effective until the last day of the month one year from issuance. Renewal is required within six (6) weeks from the expiration date, without penalty.

E. Application To Do Business:

1. Application And Fee Requirement: Any person proposing to engage in business within the City limits shall apply for and pay a business registration fee for each outlet, branch, location, or place of business within the City prior to engaging in business, unless such person is required to obtain a business license.

2. Information Required: Any person filing an application for issuance or renewal of any business registration or license shall include the following information:

a. The exact nature or kind of business for which a license is requested.

b. The form of business enterprise under which the business is to be conducted, i.e., sole proprietorship, partnership, limited partnership or corporation.

c. The place where such business is to be carried on, and if the same is not to be carried on at any permanent place of business, the places of residence of the owners of the same.

d. The name or names, other than the name of the applicant, which the business will be operating, if any.

e. The time of operation during the full twenty four (24) hour period and days of week.

f. The names and places of residence of all owners of the business; if the owner is a corporation or partnership, the application shall state the names and places of residence of the officers or general partners thereof.

g. The applicant's current revenue division taxpayer identification number or evidence of application for a current revenue division taxpayer identification number.

h. Such further information as the Clerk-Treasurer's office may deem necessary, including square footage of building and number of employees, to enable them to issue the applied for certificate.

F. Registration Not Transferable: No registration issued pursuant to this Section shall be transferable from one business to another, nor from one person conducting business to a succeeding person conducting the same business. A family-owned business, transferred to an immediate family member, is an exception and may be transferred during the calendar year.

G. Renewal: Six (6) weeks after expiration of a business registration, any person with a place of business in the City and subject to this Chapter shall apply for renewal of the business registration with the City Clerk-Treasurer.

H. Late Registration Or Renewal; Penalty: If any business fails to obtain the appropriate registration pursuant to the terms of this Chapter, or fails to renew an existing registration shall pay a late fee of ten dollars ($10.00). This penalty shall be in addition to all other fees imposed by this Chapter. No business registration shall be issued until the person applying for such registration has paid all prior registration fees due to the City.

I. Registration Or License To Be Displayed:

1. Place Of Business: The City Clerk-Treasurer shall provide a suitable certificate of registration or license to be furnished to each place of business included in this Chapter. Such certificate of registration or license shall be displayed at the place of business for which such registration or license is issued.

2. Solicitors To Carry License: Solicitors and similar licensees shall carry the license on their person while engaging in the business for which such license is issued.

J. Proper Business Location:

1. Provide Address: No registration or license shall be issued unless and until the applicant for such license provides the City Clerk-Treasurer with the address of the proposed location from which business will be conducted. (Ord. 1997-06, 12-8-1997)

2. Inspection For Compliance With Requirements: The Clerk-Treasurer shall cause inspection of the facilities and buildings at the location listed to determine if such facilities and buildings meet all applicable building and fire codes and zoning restrictions currently in force within the City. Businesses shall not be permitted to open until all City department inspections are complete and fees have been paid. (Ord. 1997-06, 12-8-1997; amd. 2000 Code)

3. Issuance Of Temporary Registration: The Clerk-Treasurer may issue a temporary registration to a business while the applicant is bringing a location to current building, zoning or fire code requirements, i.e., parking lot delay.

4. Revocation Of Registration: Registration may be revoked if applicant cannot correct the deficiency.

K. Offenses; Penalties; Procedure Not Exclusive:

1. It shall be unlawful for any person to engage in, conduct or carry on any business or occupation within the City without first registering the same or obtaining a license therefor, and without first paying the fees required.

2. It shall be unlawful for any person to knowingly file an application for issuance or renewal of any business registration or license on which any of the information required has been falsified.

3. Any person violating the provisions of this Section shall be notified by Codes Enforcement that they are in violation of this Section.

4. A notice may be placed on the entrance of any business stating that the business is in violation of the business registration ordinance, to notify the public on the status of the business.

5. A red tag of the business can be issued, if the building is deemed hazardous to the health, safety and welfare of the occupants or the community.

6. The remedies provided in this Section are not exclusive; and if any person engages in business in the City without obtaining the required registration or license for such business, the City may proceed in any manner authorized by law, including specifically, but not limited to, the procedures set forth in New Mexico Statutes Annotated sections 3-38-5 and 3-38-6. (Ord. 1997-06, 12-8-1997; amd. Ord. 2005-02, 4-5-2005)

3-1-3: **BUSINESS LICENSING:**

A. Purpose: The purpose of this Section is to provide for the licensing and regulation of certain businesses within the City.

B. Applicability Of Provisions: All provisions of Section 3-1-2 of this Chapter, and any other provision which by its terms can apply only to businesses subject to registration fees and not subject to licensing, shall apply in full force and effect to the businesses which are licensed under this Section.

C. Business License Required: All persons engaged in the pursuits, businesses and occupations listed in this Section shall, before commencing business, secure a license from the City under the procedures set forth in this Chapter,

and shall pay the license fees set forth in this Section in connection with each pursuit, business or occupation.

D. Investigation Of Applicant: Upon receipt of an application for business license under this Section, the City Clerk-Treasurer shall determine whether the proposed operation conflicts with any ordinance. The City Clerk-Treasurer or designee may investigate the application of the proposed business to determine how such business will affect the public, the level of supervision such business may require, the degree to which such business may attract crowds or children, the accessibility of the proprietors of such business when complaints are made to the City and the possibility of illegal activity at the place of business. If, as a result of such investigation, the City Clerk-Treasurer determines that the issuance of a business license conflicts with any ordinance or is not in the interest of the health, safety and general welfare of the public, the application shall be denied. (Ord. 1997-06, 12-8-1997; amd. 2000 Code; amd. Ord. 2005-02, 4-5-2005)

E. Late Registration Or Renewal; Penalty:

1. If any business fails to obtain the appropriate license pursuant to the terms of this Chapter, or fails to renew an existing license when due, the business shall pay a late fee as established by City Council resolution. This penalty shall be in addition to all other fees imposed by this Chapter.

2. No business license shall be issued until the person applying for such license has paid all prior license fees due to the City. (Ord. 1997-06, 12-8-1997; amd. Ord. 2005-02, 4-5-2005)

3-1-4: REVOCATION OF LICENSE:

A. Cause For Revocation:

1. In any case where a person is required to obtain a license or registration as provided in this Chapter and has violated any of the provisions of this Chapter or any other City ordinance relating thereto, or whenever, in the judgment of the City Clerk-Treasurer or designee, the public welfare shall require it, any license issued to such person by the City may be revoked.

2. If a business has a red tag, and the building is deemed hazardous to the health, safety, and welfare of the occupant or the community, business shall not be conducted during the appeal process unless and until the public hazard has been eliminated from the premises.

B. Notice; Hearing: No such license shall be revoked until the City Clerk-Treasurer notifies the holder of the license in writing that the revocation is pending and will become final in thirty (30) days, unless said revocation is stayed by filing a request for a hearing with the City Clerk-Treasurer to appeal

the decision. The City Council will act as the board for hearing such license hearing appeals. If no appeal request is filed within the thirty (30) day notification period, the revocation decision shall become final. (Ord. 1997-06, 12-8-1997)

3-1-5: **EFFECT OF OTHER LICENSING PROVISIONS:** Whenever other licensing provisions of this Code differ from the provisions of this Chapter, the provisions in this Code applicable to the specific type of license addressed shall take precedence. (Ord. 1997-06, 12-8-1997)

3-1-6: **PENALTY:** The violation of any of the provisions of this Chapter shall be punishable as provided in Section 1-4-1 of this Code. Each day shall constitute a separate offense in any case of continuing violation. (Ord. 1997-06, 12-8-1997; amd. 2000 Code)

CHAPTER 2

MUNICIPAL OCCUPATION TAXES

SECTION:

3-2-1: Municipal Gross Receipts Tax
3-2-2: Municipal Environmental Services Gross Receipts Tax
3-2-3: Municipal Infrastructure Gross Receipts Tax
3-2-4: Municipal Hold Harmless Gross Receipts Tax

3-2-1: MUNICIPAL GROSS RECEIPTS TAX:

A. Imposition Of Tax: There is imposed on any person engaging in business in the City for the privilege of engaging in business in the City an excise tax equal to one-fourth of one percent (.25%) of the gross receipts reported or required to be reported by the person pursuant to the New Mexico Gross Receipts and Compensating Tax Act[1] as it now exists or as it may be amended. The tax imposed under this Section is pursuant to the Municipal Gross Receipts Tax Act as it now exists or as it may be amended and shall be known as the "Municipal gross receipts tax".

B. General Provisions: This Section hereby adopts by reference all definitions, exemptions and deductions contained in the Gross Receipts and Compensating Tax Act as it now exists or as it may be amended.

C. Specific Exemptions: No Municipal gross receipts tax shall be imposed on the gross receipts arising from:

1. Transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the City to another point outside the City;

2. A business located outside the boundaries of a municipality on land owned by that municipality for which a state gross receipts tax distribution is made pursuant to New Mexico Statutes Annotated subsection C of section 7-1-6.4; or

3. Direct broadcast satellite services.

D. Dedication: Revenue from the Municipal gross receipts tax will be used for recreation related programs, recreation related capital improvements, operations and maintenance of recreation programs and activities.

[1] NMSA § 7-9-1 et seq.

E. Effective Date: The effective date of the Municipal gross receipts tax shall be either January 1 or July 1, whichever date occurs first after the expiration of three (3) months from the date this Section is adopted, unless an election is held on the question of approving this Section, in which case the effective date shall be either January 1 or July 1, whichever date occurs first after the expiration of three (3) months from the date when the results of the election are certified to be in favor of this Section's adoption and the adopted Section is delivered or mailed to the Taxation and Revenue Department. (Ord. 1990-03, 6-20-1990; amd. 2000 Code; amd. Ord. 2010-02, 3- -2010)

3-2-2: **MUNICIPAL ENVIRONMENTAL SERVICES GROSS RECEIPTS TAX:**

A. Imposition Of Tax: There is imposed on any person engaging in business in the City for the privilege of engaging in business in the City an excise tax equal to one-sixteenth of one percent (1/16%) of the gross receipts reported or required to be reported by the person pursuant to the New Mexico Gross Receipts and Compensating Tax Act[1] as it now exists or as it may be amended. The tax imposed under this Section is pursuant to the Municipal Environmental Services Gross Receipts Tax Act as it now exists or as it may be amended and shall be known as the "Municipal environmental services gross receipts tax".

B. General Provisions: This Section hereby adopts by reference all definitions, exemptions and deductions contained in the Gross Receipts and Compensating Tax Act as it now exists or as it may be amended.

C. Specific Exemptions: No Municipal environmental services gross receipts tax shall be imposed on the gross receipts arising from:

1. The transmission of messages by wire or other means from one point within the City to another point outside the City;

2. Transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the City to another point outside the City; or (Ord. 1991-02, 1-16-1991)

3. A business located outside the boundaries of a municipality on land owned by that municipality for which a gross receipts tax distribution is made pursuant to New Mexico Statutes Annotated subsection A(3) of section 7-1-6.4.

[1] NMSA § 7-9-1 et seq.

D. Dedication: Revenue from the Municipal environmental services gross receipts tax will be used for the purposes listed below:

For the acquisition, construction, operation and maintenance of solid waste facilities, water facilities, wastewater facilities, sewer systems and related facilities.

E. Effective Date: The effective date of the Municipal environmental services gross receipts tax shall be July 1, 1991, unless an election is held pursuant to New Mexico Statutes Annotated section 7-19-12 on the question of disapproving this Section, in which case the effective date shall be either July 1 or January 1, whichever date occurs first after the expiration of three (3) months from the date when the results of the election are certified to be in favor of this Section's adoption. (Ord. 1991-02, 1-16-1991; amd. 2000 Code)

3-2-3: MUNICIPAL INFRASTRUCTURE GROSS RECEIPTS TAX:

A. Imposition Of Tax: There is imposed on any person engaging in business in the City for the privilege of engaging in business in the City an excise tax equal to one-eighth of one percent (1/8%) of the gross receipts reported or required to be reported by the person pursuant to the New Mexico Gross Receipts and Compensating Tax Act' as it now exists or as it may be amended. The tax imposed under this Section is pursuant to the Municipal Infrastructure Gross Receipts Tax Act as it now exists or as it may be amended and shall be known as the "Municipal infrastructure gross receipts tax".

B. General Provisions: This Section hereby adopts by reference all definitions, exemptions and deductions contained in the Gross Receipts and Compensating Tax Act as it now exists or as it may be amended.

C. Specific Exemptions: No Municipal infrastructure gross receipts tax shall be imposed on the gross receipts arising from:

1. The transmission of messages by wire or other means from one point within the City to another point outside the City;

2. Transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the City to another point outside the City; or (Ord. 1992-01, 3-25-1992)

[1] NMSA § 7-9-1 et seq.

3. A business located outside the boundaries of a municipality on land owned by that municipality for which a gross receipts tax distribution is made pursuant to New Mexico Statutes Annotated subsection A(3) of section 7-1-6.4. (Ord. 1992-01, 3-25-1992; amd. 2000 Code)

D. Dedication: Revenue from the Municipal infrastructure gross receipts tax will be used for the general Municipal purposes.

E. Effective Date: The effective date of the Municipal infrastructure gross receipts tax shall be either January 1 or July 1, whichever date occurs first after the expiration of at least three (3) months from the date this Section is adopted. (Ord. 1992-01, 3-25-1992)

3-2-4: MUNICIPAL HOLD HARMLESS GROSS RECEIPTS TAX:

A. Imposition of Tax: There is imposed on any person engaging in business in this municipality for the privilege of engaging in business in this municipality and excise equal to three-eights of one percent (.375%) of the gross receipts reported or required to be reported by the person pursuant to the New Mexico gross Receipts and Compensating Tax Act as it now exists or as it may be amended. The tax imposed under this Section is pursuant to the Municipal Local Option Gross Receipts Taxes Act as it now exists or as it may be amended and shall be known as the “municipal hold harmless gross receipts tax.”

B. General Provisions: This Section hereby adopts by reference all definitions, exemptions and deductions contained in the Gross Receipts and Compensating Tax Act as it now exists or as it may be amended.

C. No municipal hold harmless gross receipts tax shall be imposed on the gross receipts arising from:

1. Transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one (1) point within the municipality to another point outside the municipality.

2. A business located outside the boundaries of a municipality on land owned by that municipality for which a state gross receipts tax distribution is made pursuant to NMSA § 7-1-6.4(C); or

3. Direct broadcast satellite services.

D. Dedication: Revenue from the municipal hold harmless gross receipts tax will be used for any specific purpose or area of municipal government services, including but not limited to police protection, public transportation or street repair and maintenance. (Ord. 2014-07, 11-18-2014; amd. Ord. 2015-01, 2-3-2015)

CHAPTER 3
LIQUOR CONTROL

SECTION:

3-3-1: Definitions
3-3-2: Effective License Period
3-3-3: License Required; Tax Rates
3-3-4: Sunday Sales Licenses
3-3-5: Operation Without License; Closure
3-3-6: Liquor In Parks; Public Celebrations
3-3-7: Prohibited Acts
3-3-8: Penalty

3-3-1: DEFINITIONS: As used in this Chapter:

CLUB: Any nonprofit group, including an auxiliary or subsidiary group, organized and operated under the laws of the State, with a membership of not less than fifty (50) members who pay membership dues at the rate of not less than five dollars ($5.00) per year and who, under the constitution and bylaws of the club, have all voting rights and full membership privileges, and which group is the owner, lessee, or occupant of premises used exclusively for the club purposes and which group the Director finds is operated solely for recreational, social, patriotic, political, benevolent, or athletic purposes.

DEPARTMENT: The State Department of Alcoholic Beverage Control.

DIRECTOR: The State Director of the Department.

DISPENSER: Any person licensed under the provisions of the Liquor Control Act' selling, offering for sale or having in his possession with the intent to sell alcoholic beverages both by the drink for consumption on the licensed premises and in unbroken packages for consumption and not for resale off the licensed premises.

GOVERNING BODY: The Mayor and elected Council members of the City.

PERSON: An individual, corporation, firm, partnership, copartnership, association or other legal entity.

RESTAURANT: Any establishment having a New Mexico resident as a proprietor or manager which is held out to the public as a place where meals are prepared and served primarily for on-premises consumption to the general public in consideration of payment and which has a dining room, a kitchen, and the employees necessary for preparing, cooking, and serving meals; provided, that "restaurant" does not include establishments as defined in regulations promulgated by the Director serving only hamburgers, sandwiches, salads, and other fast foods.

RETAILER: Any person licensed under the provisions of the Liquor Control Act selling, offering for sale or having in his possession with the intent to sell any alcoholic beverages in unbroken packages for consumption and not for resale off the licensed premises. (Ord. 1993-05, 6-7-1993; amd. 2000 Code)

3-3-2: EFFECTIVE LICENSE PERIOD: Pursuant to the provisions

of New Mexico Statutes Annotated section 7-24-1, the Governing Body, by ordinance, shall set the rates, and the dates and manner of license tax payment on or before June 1 of each year. The rate
1. NMSA § 7-24-1 et seq.

set shall apply from July 1 through and including June 30 of the following year. (Ord. 1993-05, 6-7-1993; amd. 2000 Code)

3-3-3: LICENSE REQUIRED; TAX RATES:

A. Pursuant to the provisions of New Mexico Statutes Annotated section 7-24-1, on or after the effective date hereof, no person who has been issued a State license from the Department shall be given possession of the license by the City or a City license until the person has paid the City license tax in full and in advance of issuance of the licenses.

B. The tax rate shall be:

Type Of License	Tax Amount
Retailer's license	$250.00
Dispenser's license	250.00
Club license	250.00
Restaurant license	250.00
Canopy	250.00

(Ord. 1993-05, 6-7-1993)

3-3-4: SUNDAY SALES LICENSES:

A. Additional Fee Imposed: Per the provisions of New Mexico Statutes Annotated section 60-7A-1C, license holders seeking to use their license privileges on Sunday must pay (in the event Sunday sales are authorized by the voters) to the City an additional fee of: (Ord. 1993-05, 6-7-1993; amd. 2000 Code)

Type Of License	Tax Amount
Retailer's license	$250.00
Dispenser's license	250.00
Club license	250.00
Restaurant license	250.00
Canopy	250.00

B. Advance Payment In Full: Such fee shall be paid in full and in advance of issuance of a license. (Ord. 1993-05, 6-7-1993)

3-3-5: OPERATION WITHOUT LICENSE; CLOSURE: Failure of any person holding a retailer's, dispenser's, club, restaurant or canopy license to pay such license tax on the date(s) and in the manner imposed by this Chapter, shall be subject to appropriate action by the Governing Body of the City as provided by New Mexico Statutes Annotated section 7-24-3 relating to the closing of establishments. (Ord. 1993-05, 6-7-1993)

3-3-6: LIQUOR IN PARKS; PUBLIC CELEBRATIONS:

A. Prohibited In Parks, Exception: It is unlawful for any person to sell, serve, consume, possess or permit the consumption of alcoholic beverages in or on any public parks, streets, public parking lots or public areas, unless done during and as part of any public celebration.

B. Permit For Public Celebration:

1. Definition: A "public celebration" is any State fair, County fair, community fair, community fiesta, cultural or artistic performance or professional athletic competition of a seasonal nature, any historical performance or pageant, or any public activity held on an intermittent basis.

2. Permit Required: Only persons holding dispenser's licenses within the City may dispense alcoholic beverages at a public celebration. Such persons may do so only upon receiving permission and a permit from the City and upon receiving a "special

dispenser's permit" from the Director of the State Alcoholic Beverage Control Department.
3. Permit Fees: In addition to the State fee required for issuance of a special dispenser's permit, the permittee shall pay the City the amount of ten dollars ($10.00) per day for each day the permittee dispenses alcoholic beverages at the public celebration.
4. Compliance With State Laws: The permittee shall be subject to all State laws and regulations and all local laws and regulations regulating dispenser's privileges and liabilities, and the permit shall be valid for no more than twelve (12) hours. (Ord. 1988-02, 2-16-1988)
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City of Sunland Park
3-3-7 3-3-8
3-3-7: PROHIBITED ACTS:
A. Consumption In Licensed Premises Only: It is unlawful for any person to consume alcoholic beverages in any public establishment unless the establishment is licensed to sell and serve alcoholic beverages.
B. Liquor Sales Without License Prohibited: It is unlawful for any person not a legal licensee of a liquor establishment, or any person not holding the appropriate liquor license, to sell, serve or permit the consumption of alcoholic beverages in a public establishment.
C. Open Container Of Alcohol On Public Ways: It is unlawful for any person to be in possession of any glass, can or open container containing alcoholic beverage on any public street, alley, sidewalk, parking lot, or other public way or thoroughfare, unless it is in an area of a public celebration as permitted by Section 3-3-6 of this Chapter. (Ord. 1988-02, 2-16-1988)
3-3-8: PENALTY: Any person found guilty of violating any of the
provisions of this Chapter shall be subject to punishment as provided in Section 1-4-1 of this Code, and each time this Chapter is violated shall constitute a separate offense. (Ord. 1988-02, 2-16-1988; amd. Ord. 1993-05, 6-7-1993; 2000 Code)
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3-4-1 3-4-2
CHAPTER 4
HOME OCCUPATIONS
SECTION:
3-4-1: Purpose And Intent
3-4-2: Conditions For Allowing In Residential Zoning District
3-4-3: Permitted Home Occupations And Conditions
3-4-4: Parking Requirements And Conditions
3-4-5: Permit Approval
3-4-6: Permit Revocation
3-4-7: Revocation Of Registration By City Council
3-4-8: Penalty
3-4-1: PURPOSE AND INTENT: The use of a home occupation
permit is to allow home occupations which are compatible with the neighborhood in which they are located. The specific intent of a home occupation permit is to:
A. Protect residential areas from any negative impacts associated with home occupations.
B. Allow residents a broad choice in the use of their homes as a place for income and livelihood.
C. Establish criteria and standards for conducting home occupations within residential zoning districts. (Ord. 1997-05, 12-8-1997)
3-4-2: CONDITIONS FOR ALLOWING IN RESIDENTIAL ZONING DISTRICT: A home occupation is permitted in a residential zoning district subject to the following conditions:

A. Occupant Residing On Premises: No person other than an occupant residing on the premises shall be engaged in a home occupation.

B. Incidental And Subordinate: The home occupation use of a dwelling shall be clearly incidental and subordinate to its residential use and not more than twenty five percent (25%) of the dwelling's gross floor area, not to exceed five hundred (500) square feet, shall be used in conducting the home occupation.

C. Storage Enclosed: Storage in connection with any home occupation shall be totally enclosed within the dwelling and limited to items which are necessary to conduct the home occupation or have been ordered by a customer, but have not been delivered to the customer.

D. Retail Sales: There shall be no direct sale of products off display shelves or racks. Retail sales shall only be conducted if product orders are placed earlier by telephone or at sales party. Sales to customers shall be arranged by appointment and scheduled so that not more than one customer vehicle is at the dwelling. This requirement shall include the sale of firearms.

E. Outside Appearance: There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of a home occupation, and there shall be no open storage of business related equipment or supplies. Company owned vehicles which are three-fourths (3/4) ton truck or smaller which are also used for personal transportation purposes shall be exempt from this condition.

F. Signs: Signs shall not be permitted to advertise a business or its products, except a name plate one square foot in size, nonilluminate, mounted flush against the home.

G. Performance Standards; Hours: No equipment or process shall be used in a home occupation which creates noise, vibration, glare, fumes, odor or electrical interference detectable in adjacent areas, and no equipment or process shall be used which creates visual or audible interference for any radio or television receivers on and near the premises, which exceeds that normally found in a residential area. Hours of operation of such equipment shall be limited to those hours between seven o'clock (7:00) A.M. and nine o'clock (9:00) P.M.

H. Toxic Or Flammable Materials: There shall be no toxic (pesticides, herbicides, rodenticides), explosive, highly flammable, combustible, corrosive, etiologic, radioactive or other restricted materials used or stored on the premises of a home occupation beyond the amount kept at a normal residential dwelling or on hand to operate or

maintain equipment, and permitted by the National Fire Protection Association as adopted by the State of New Mexico.

I. Utility Usage: No home occupation shall cause an increase in the use of any one or more public utility (water, sewer, electricity or garbage collection). The combined utility usage of the dwelling and home occupation shall not exceed the average residential usage.

J. Business Registration Required: All home occupations shall be required to obtain a business registration from the City Clerk-Treasurer's office. (Ord. 1997-05, 12-8-1997)

3-4-3: PERMITTED HOME OCCUPATIONS AND CONDITIONS:

Permitted home occupations shall be classified into categories of similar uses. For the purpose of this Section, the use categories shall be professional office, professional service, instructional service, home artisan business and repair service home occupations. If a proposed home occupation is not specifically identified in a use category, a certificate of zoning shall be requested from and prepared by the Planning and Zoning Commission stating if the proposed use is permitted as a home

occupation. (Ord. 1997-05, 12-8-1997; amd. 2000 Code)

A. Professional Office: A professional office shall be considered an office for accountants, appraisers, architects, attorneys, contractors, engineers, financial planners, insurance agents, consulting services, real estate and similar office uses. Dentist and medical doctor offices shall not be considered permitted home occupation as a professional office.

B. Professional Service:

1. A professional service shall be considered computer programming, beautician, barbershop, direct distribution (Amway, Avon, Tupperware, etc.), maid service, mail order, massage therapy, ironing, pet grooming, telephone/fax answering, word processing and similar service use. Beauticians, barbershops, and massage therapist licensed by the State shall be limited to one customer station. (Ord. 1997-05, 12-8-1997)

2. The following professional service businesses shall be prohibited as home occupations; these uses are fortunetelling, health and exercise facilities, massage parlors, palm reading and tattoo parlors. (Ord. 1997-05, 12-8-1997; amd. 2000 Code)

C. Instructional Service: An instructional service use shall be considered educational tutoring, music lessons and similar instructional services. A maximum of five (5) students may be at the dwelling at any one time. No music instruments may be amplified.

D. Home Artisan Business: A home artisan business shall be considered artist's studios, cabinet making, dress making, engraving, furniture making, hobby crafts, jewelry making, sewing, tailor, writing studio and similar uses.

E. Small Item Repair Service: A small item repair service shall be considered locksmith repair, watch repair, tool repair, shoe repair and similar repair services. Auto repair, small appliance repair, small engine repair and similar large item repair shall not be considered a small item repair service home occupation. (Ord. 1997-05, 12-8-1997)

3-4-4: PARKING REQUIREMENTS AND CONDITIONS': The parking requirements for home occupations shall conform to the following conditions:

A. Maintain Residential Appearance: On-street parking near a home occupation for customers or clients shall be permitted to maintain the residential appearance of a neighborhood.

B. Number Restricted: No more than two (2) client or customer vehicles per hour shall frequent a home occupation, except for lessons. For those home occupations involving teaching (music, tutoring, etc.) the maximum number of clients shall be five (5) at any one time.

C. Delivery Trucks: Delivery trucks in connection with home occupations shall be limited to:

1. No more than two (2) deliveries per week from a two (2) axle, six (6) tire vehicle;
2. No more than one delivery per month from a three (3) axle vehicle;
3. No delivery vehicles with four (4) or more axles;
1. See also subsection 10-13-1 E of this Code.

4. On-street parking near a home occupation by delivery truck for delivery purposes only.

D. Vehicle Size: Vehicles larger than two (2) axle, six (6) tire vehicles shall not be used by the business operation as a home occupation.

E. Requirement For Dwelling: A home occupation shall not cause the elimination of any required off-street parking for the main dwelling.

F. Commercial Vehicle: No more than one commercial vehicle shall be parked

overnight on the premises of a home occupation. (Ord. 1997-05, 12-8-1997)

3-4-5: PERMIT APPROVAL: Home occupations shall be approved through the City business registration and licensing process' as administered by the City Clerk-Treasurer's office.

A. Application:

1. Submission To Clerk-Treasurer's Office: Application for a business registration and home occupation permit shall be submitted to the City Clerk-Treasurer's office. The City Clerk-Treasurer or designee shall provide the appropriate forms.

2. Review Of Application; Inspection Of Location: The complete application shall be reviewed by the Planning and Zoning Commission and the Fire Department for compliance with applicable City codes and regulations. The location may be inspected by either the Planning and Zoning Commission or Fire Department if deemed necessary.

B. Permit Denial Or Issuance:

1. Applications for home occupation permits which do not meet the requirements of this Chapter shall be denied.

2. Applications for home occupation permits which do meet the requirements of this Chapter shall be approved and issued a business registration from the City Clerk-Treasurer's office.

1. See Chapter 1 of this Title.

C. Renewal: A home occupation permit shall be automatically renewed each year, provided no provisions of this Chapter have been violated. (Ord. 1997-05, 12-8-1997; amd. 2000 Code)

3-4-6: PERMIT REVOCATION: A home occupation permit may be revoked by the City for nonconformance with this Chapter. The following process shall be followed for the revocation of a home occupation permit:

A. Scope: The City may revoke any home occupation permit for noncompliance with the requirements of this Chapter. Any home occupation permit which is revoked or not renewed shall become null and void and such use shall cease.

B. Home Occupation Inspections: Home occupation recipients shall allow reasonable inspection of their premises at any time by officials of the City to determine compliance with the requirements set out in Section 3-4-5 of this Chapter.

C. Revocation Process: The procedure to be followed by the City to revoke a home occupation permit includes:

1. A home occupation permit shall be revoked for the following reasons:

a. A change in home occupation use.

b. A failure to renew the business registration and/or license for the home occupation.

c. A failure to permit the City to inspect the premises of a home occupation.

d. The providing of false information on the home occupation permit application.

e. A failure to meet any of the requirements of Section 3-4-2 of this Chapter or any other section of this Code or other City ordinance.

2. The steps followed by the City to revoke a home occupation permit shall include:

a. A maximum thirty (30) day time period to abate the violation to Section 3-4-2 of this Chapter. Violations impacting health, safety and welfare may be given a time period less than thirty (30) days for abatement.

b. A description of further action the City will take if the violation is not abated.

D. City Actions: The City shall take all necessary actions to enforce this Chapter. (Ord. 1997-05, 12-8-1997; amd. 2000 Code)

3-4-7: REVOCATION OF REGISTRATION BY CITY COUNCIL:

A. Revocation Authorized: In any case where a person is required to obtain a registration as provided in this Chapter and has violated any of the provisions of this

Chapter or any other City ordinance relating thereto, or whenever, in the judgment of the City Clerk-Treasurer or designee, the public welfare shall require it, any registration issued to such person by the City may be revoked. No business shall be conducted during the appeal process unless and until the public hazard has been eliminated from the premises.

B. Notice; Hearing: No such registration shall be revoked until the City Clerk-Treasurer notifies the holder of the registration in writing that the revocation is pending and will become final in thirty (30) days, unless said revocation is stayed by filing a request for a hearing with the City Clerk-Treasurer to appeal the decision. The City Council will act as the board for hearing such license hearing appeals. If no appeal request is filed within the thirty (30) day notification period, the revocation decision shall become final. (Ord. 1997-05, 12-8-1997)

3-4-8: PENALTY: The violation of any of the provisions of this Chapter shall be punishable as provided in Section 1-4-1 of this Code. Each day shall constitute a separate offense in any case of continuing violation. (Ord. 1997-05, 12-8-1997; amd. 2000 Code)

CHAPTER 5

DISTRESS SALES

SECTION:

3-5-1: Definitions
3-5-2: License Required
3-5-3: Application For License
3-5-4: Investigation Of And Grounds For Denial Of License
3-5-5: Issuance Of License; Conditions
3-5-6: License Fee
3-5-7: Confidentiality Requirements
3-5-8: Revocation Of License
3-5-9: Penalty

3-5-1: DEFINITIONS: Unless the context clearly indicates that a different meaning is intended, the words and phrases used shall have the following meanings:

DISTRESS MERCHANDISE SALE: Any offer to sell to the public, or sale to the public, of goods, wares or merchandise on the implied or direct representation that such sale is in anticipation of the termination of a business at its present location or that the sale is being held other than in the ordinary course of business. Distress merchandise sales shall include, but are not limited to, any sale advertised either specifically or in substance as a "fire sale", "smoke and water damage sale", "adjustment sale", "liquidation sale", "creditor's sale", "insolvent sale", "trustee's sale", "bankrupt sale", "save us from bankruptcy sale", "insurance salvage sale", "mortgage sale", "assignee's sale", "adjuster's sale", "must vacate sale", "going out of business sale", "quitting business sale", "receiver's sale", "loss of lease sale", "forced out of business sale",

"removal sale", "change of ownership sale", or "new location sale".

PERSON: Any individual, estate, trust, receiver,

cooperative association, association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity. (Ord. 1997-06, 12-8-1997)

3-5-2: LICENSE REQUIRED: It shall be unlawful for any person to advertise or conduct a distress merchandise sale without having first obtained a license to do so in accordance with the provisions of this Chapter. (Ord. 1997-06, 12-8-1997)

3-5-3: APPLICATION FOR LICENSE: Any person desiring to conduct a distress merchandise sale shall make written application to the City Clerk-Treasurer if the sale is to be held within the City boundaries, at least fifteen (15) days prior to the date of the sale, unless the merchandise to be sold consists of perishable goods, or goods damaged by smoke, fire or water, in which case the fifteen (15) day time period is waived. Each application shall contain the following:

A. Name and address of the owner of the merchandise to be sold;

B. Description of the location of the sale;

C. Nature of the occupancy of the place where such sale is to be held, and effective date of the termination of the premises;

D. Beginning and ending dates of the distress merchandise sale;

E. Full and complete statement of the facts regarding the reason why the distress merchandise sale is being held, the manner of conduct of the sale, the means of advertising, together with content of proposed advertisement or copies thereof;

F. If a terminated business is involved, the name and address of the business and owner or former owner;

G. Complete and detailed inventory of the merchandise including goods received on consignment to be offered at the sale, the terms and conditions of the acquisition of the merchandise, amount and

description of the merchandise, location of merchandise at the time of filing application;

H. Statement that the applicant has not, within ninety (90) days prior to filing application, in contemplation of the distress sale ordered, purchased or received on consignment any merchandise for the purpose of selling them at sale;

I. A statement that no goods will be added to the inventory after the application is made or during the sale;

J. A statement that the applicant or its principal officers have not been convicted of a violation of the Distress Sales Ace or had a license issued under said Act revoked within five (5) years of the filing of this application. (Ord. 1997-06, 12-8-1997)

3-5-4: INVESTIGATION OF AND GROUNDS FOR DENIAL OF LICENSE: The City Clerk-Treasurer may, upon the filing of an application, investigate the applicant and examine his affairs in relation to the proposed sale and may examine the inventory and records of the applicant. No license shall be issued if it is found that:

A. The applicant has held a sale submitted to regulations under the Distress Sales Act at the location described in the application within three (3) years from the date of the application; or

B. The application states that the applicant or any of its principal officers or agents have been convicted of a violation of the Distress Sales Act or has had a license issued under said Act revoked within five (5) years of the filing of this application; or

C. The inventory submitted with the application includes merchandise purchased or held on consignment by the applicant or added to his stock in contemplation of such sale and for the purpose of selling the stock at distress sale; or

D. The applicant, in ticketing the merchandise for sale, has misrepresented the

original retail price or value thereof; or
E. The advertisements are false, fraudulent, deceptive or misleading in any respect; or
1. NMSA §§ 57-10-1 to 57-10-12.

F. The sales methods used by the applicant in conducting the sale will work a fraud upon the purchasers; or
G. The information in the application is insufficient; or
H. Representations made in the application are false; or
I. The applicant has acquired bankrupt stock or other distress sale merchandise from another area, either within or outside the State, within six (6) months of the application. (Ord. 1997-06, 12-8-1997)
3-5-5: ISSUANCE OF LICENSE; CONDITIONS:
A. Conditions For Issuance: If the application which has been submitted complies with the provisions of the Distress Sales Act and the required license fee has been paid, the City Clerk-Treasurer shall issue the applicant a license to advertise and conduct the sale described in the application subject to the following conditions:
1. The sale shall be held at the place named in the application;
2. The sale shall be held by the licensee for a period of not more than ninety (90) days following the date set forth in the license;
3. Only merchandise included in the inventory attached to the application shall be displayed on the premises and sold at the sale;
4. The license shall be prominently displayed at the location of the sale at all times;
5. The licensee shall keep accounting records at the sale location which shall be open for inspection by the City Clerk-Treasurer during normal business hours.
B. Current Business Registration Cancellation: Issuance of a distress sales license cancels the current business registration or license currently held by the business. (Ord. 1997-06, 12-8-1997)
3-5-6: LICENSE FEE:
A. Fee Imposed: The fee for any license issued pursuant to the Distress Sales Act shall be fifty dollars ($50.00) or one-fourth of one percent ('/4%)) of the inventory cost value of the merchandise to be sold at

the sale, whichever is more. In no case shall the license fee exceed two hundred dollars ($200.00).
B. Extension Of License Period: If, during the period the license is in effect, it appears that all the merchandise in the original inventory have not been sold, the City Clerk-Treasurer may, upon application and for good cause shown, extend the license for a period not to exceed thirty (30) days. (Ord. 1997-06, 12-8-1997)
3-5-7: CONFIDENTIALITY REQUIREMENTS: The filing of an application for a license, the contents of the application and the issuance of the license shall be confidential information and no disclosure thereof shall be made except that which is necessary in the administration of this Chapter. Disclosure of the information may be made with the written consent of the applicant. The filing of the application and the issuance of the license shall not be confidential after public notice of the proposed sale has been given by the applicant. (Ord. 1997-06, 12-8-1997)
3-5-8: REVOCATION OF LICENSE: The City Council shall revoke any license issued pursuant to the Distress Sales Act if it is found that the licensee has:
A. Violated any provision of the Distress Sales Act; or
B. Violated any condition of the license; or
C. Made any material misstatement in the application for the license; or
D. Failed to include in the inventory required by the Distress Sales Act all the merchandise being offered for sale; or

E. Offered or permitted to be offered at sale any merchandise not included in the inventory attached to the application; or

F. Failed to keep suitable records of the sale; or

G. Made or permitted to be made false or misleading statements or representations in advertising the sale or in displaying, ticketing or pricing merchandise offered for sale; or

H. Been guilty of any fraudulent practice in the conduct of the sale authorized by the license. (Ord. 1997-06, 12-8-1997)

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3-5-9 3-5-9

3-5-9: PENALTY: The violation of any of the provisions of this Chapter shall be punishable as provided in Section 1-4-1 of this Code. Each day shall constitute a separate offense in any case of continuing violation. (Ord. 1997-06, 12-8-1997; amd. 2000 Code)

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CHAPTER 6

ECONOMIC DEVELOPMENT PLAN

SECTION:

3-6-1: Local Economic Development Plan
3-6-2: Authority
3-6-3: Purpose
3-6-4: Definitions as Used in the Local Economic Development Act
3-6-5: Restrictions on Public Expenditures or Pledges of Credit
3-6-6: Economic Development Project Applications
3-6-7: Project Participation Agreement; Duties and Requirements
3-6-8: Project Revenues; Special Fund; Annual Audit
3-6-9: Plan and Project Termination

3-6-1: **LOCAL ECONOMIC DEVELOPMENT PLAN:** This Chapter may be cited as the "Local Economic Development Plan Ordinance." (Ord. 2014-08, 12-16-2014)

3-6-2: **AUTHORITY:** The Local Economic Development Plan Ordinance is enacted pursuant to the statutory authority conferred upon municipalities and counties to allow public support of economic development (NMSA §§ 5-10-1 to 5-10-13). This Chapter is adopted as part of Sunland Park's Economic Development Plan. (Ord. 2014-08, 12-16-2014)

3-6-3: **PURPOSE:**

A. The purpose of the Local Economic Development Plan Ordinance is to allow public support of economic projects to foster, promote and enhance local economic development efforts while continuing to protect against the unauthorized use of public money and other public resources. Further, the purpose of the ordinance is to allow the City of Sunland Park to enter into one (1) or more joint powers agreement with other local governments to plan and support regional economic development projects.

B. Local Economic Development Act: Local governments are allowed to provide direct or indirect assistance to qualifying business for furthering or implementing economic development plan and projects, furthermore local and regional governments have the authority to contribute assets to development projects. Counties may impose county infrastructure gross receipts tax and dedicate the revenue for economic development projects. A total of 0.25% tax (in four increment of 0.0625%) may be imposed. Municipalities may impose municipal infrastructure gross receipts tax and dedicate the revenue for

economic development projects. Cities may impose up to .1255% in two .0625 increments. The imposition of a tax must be approved by the voters in referendum. (Ord. 2014-08, 12-16-2014)

3-6-4: DEFINITIONS AS USED IN THE LOCAL ECONOMIC DEVELOPMENT ACT:

ARTS AND CULTURAL DISTRICT:	A developed district of public and private uses that is created pursuant to the Arts and Cultural District Act (NMSA §§ 15-5A-1 through 15-5A-7).
CULTURAL FACILITY:	A facility that is owned by the state, a county, a municipality or a qualifying entity that serves the public through preserving, educating and promoting the arts and culture of a particular locale, including theaters, museums, libraries, galleries, cultural compounds, educational organizations, performing arts venues and organizations, fine arts organizations, studios and media laboratories and live-work housing facilities.
DEPARTMENT:	The economic development department.
ECONOMIC DEVELOPMENT PROJECT OR PROJECT:	The provision of direct or indirect assistance to a qualifying entity by a local or regional government and includes the purchase, lease, grant, construction, reconstruction, improvement or other acquisition or conveyance of land, buildings or other infrastructure; public works improvements essential to the location or expansion of a qualifying entity; payments for professional services contracts necessary for local or regional governments to implement a plan or project; the provision of direct loans or grants for land, buildings or infrastructure; technical assistance to cultural facilities; loan guarantees securing the cost of land, buildings or infrastructure in an amount not to exceed the revenue that may be derived from the municipal infrastructure gross receipts tax or the county infrastructure gross receipts tax; grants for public works infrastructure improvements essential to the location or expansion of a qualifying entity; grants or subsidies to cultural facilities; purchase of land for a publicly held

industrial park or a publicly owned cultural facility; and the construction of a building for use by a qualifying entity.

GOVERNING BODY: The city council, city commission or board of trustees of a municipality or the board of county commissioners of a county.

LOCAL GOVERNMENT: A municipality or county.

MUNICIPALITY: An incorporated city, town or village.

PERSON: An individual, corporation, association, partnership or other legal entity.

QUALIFYING ENTITY: A corporation, limited liability company, partnership, joint venture, syndicate, association or other person that is one or a combination of two (2) or more of the following:

A. An industry for the manufacturing, processing or assembling of agricultural or manufactured products;

B. A commercial enterprise for storing, warehousing, distributing or selling products of agriculture, mining or industry, but, other than as provided in Section 3-6-5 or Section 3-6-9 of this Chapter, not including any enterprise for sale of goods or commodities at retail or for distribution to the public of electricity, gas, water or telephone or other services commonly classified as public utilities;

C. A business in which all or part of the activities of the business involves the supplying of services to the general public or to governmental agencies or to a specific industry or customer, but, other than as provided in Section 3-6-5 or Section 3-6-9 of this Chapter, not including businesses primarily engaged in the sale of goods or commodities at retail;

D. An Indian nation, tribe or pueblo or a federally chartered tribal corporation;

E. A telecommunications sales enterprise that makes the majority of its sales to persons outside New Mexico;

F. A facility for the direct sales by growers of agricultural products, commonly known as farmers' markets;

G. A business that is the developer of a metropolitan redevelopment project;

H. A cultural facility; and

I. A retail business.

REGIONAL GOVERNMENT: Any combination of municipalities and counties that enter into a joint powers agreement to provide for economic development projects pursuant to a plan adopted by all parties to the joint powers agreement.

RETAIL BUSINESS: A business that is primarily engaged in the sale of goods or commodities at retail and that is located in a municipality with a population of ten thousand (10,000) or less. (Ord. 2014-08, 12-16-2014)

3-6-5: RESTRICTIONS ON PUBLIC EXPENDITURES OR PLEDGES OF CREDIT:

A. No local or regional government shall provide public support for economic development projects as permitted pursuant to Article 9, Section 14 of the constitution of New Mexico except as provided in the Local Economic Development Act or as otherwise permitted by law.

B. The total amount of public money expended and the value of credit pledged in the fiscal year in which that money is expended by a local government for economic development projects pursuant to Article 9, Section 14 of the constitution of New Mexico and the Local Economic Development Act shall not exceed ten percent (10%) of the annual general fund expenditures of the local government in that fiscal year. The limits of this subsection shall not apply to:

1. The value of any land or building contributed to any project pursuant to a project participation agreement;

2. Revenue generated through the imposition of the municipal infrastructure gross receipts tax pursuant to the Municipal Local Option Gross Receipts Taxes Act (NMSA Chapter 7, Article 19D) for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act (NMSA Chapter 6, Article 25); provided that no more than the greater of fifty thousand dollars ($50,000) or ten percent

(10%) of the revenue collected shall be used for promotion and administration of or professional services contracts related to the implementation of any such economic development plan adopted by the governing body;

3. Revenue generated through the imposition of a county infrastructure gross receipts tax pursuant to the County Local Option Gross Receipts Taxes Act (NMSA Chapter 7, Article 20E) for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act; provided that no more than the greater of fifty thousand dollars ($50,000) or ten percent (10%) of the revenue collected shall be used for promotion and administration of or professional services contracts related to the implementation of any such economic development plan adopted by the governing body;

4. The proceeds of a revenue bond issue to which municipal infrastructure gross receipts tax revenue is pledged;

5. The proceeds of a revenue bond issue to which county infrastructure gross receipts tax revenue is pledged; or

6. Funds donated by private entities to be used for defraying the cost of a project.

C. A regional or local government that generates revenue for economic development projects to which the limits of subsection B.2. of this Section do not apply shall create an Economic Development Fund into which such revenues shall be deposited. The Economic Development Fund and income from the Economic Development Fund shall be deposited as provided by law. Money in the Economic Development Fund may be expended only as provided in the Local Economic Development Act or the Statewide Economic Development Finance Act.

D. In order to expend money from an economic development fund for arts and cultural district purposes, cultural facilities or retail businesses, the governing body of a municipality or county that has imposed a municipal or county local option infrastructure gross receipts tax for furthering or implementing economic development plans and projects, as defined in the Local Economic Development Act, or projects, as defined in the Statewide Economic Development Finance Act, by referendum of the majority of the voters voting on the question approving the ordinance imposing the municipal or county infrastructure gross receipts tax before July 1, 2013 shall be required to adopt a resolution. The resolution shall call for an election to approve arts and cultural districts as a qualifying purpose and cultural facilities or retail businesses as a qualifying entity before any revenue generated by the municipal or county local option gross receipts tax for furthering or implementing economic development plans and projects, as defined in the Local Economic Development Act, or projects, as defined in the Statewide

Economic Development Finance Act, can be expended from the economic development fund for arts and cultural district purposes, cultural facilities or retail businesses.

1. The governing body shall adopt a resolution calling for an election within seventy-five (75) days of the date the ordinance is adopted on the question of approving arts and cultural districts as a qualifying purpose and cultural facilities or retail businesses as a qualifying entity eligible to utilize revenue generated by the Municipal Local Option Gross Receipts Taxes Act or the County Local Option Gross Receipts Taxes Act for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act.

2. The question shall be submitted to the voters of the municipality or county as a separate question at a regular municipal or county election or at a special election called for that purpose by the governing body. A special municipal election shall be called, conducted and canvassed as provided in the Municipal Election Code (NMSA Chapter 3, Articles 8 and 9). A special county election shall be called, conducted and canvassed in substantially the same manner as provided by law for general elections.

3. If a majority of the voters voting on the question approves the ordinance adding arts and cultural districts and cultural facilities or retail businesses as an approved use of the local option municipal or county economic development infrastructure gross receipts tax fund, the ordinance shall become effective on July 1 or January 1, whichever date occurs first after the expiration of three months from the date of the adopted ordinance. The ordinance shall include the effective date. (Ord. 2014-08, 12-16-2014)

3-6-6: ECONOMIC DEVELOPMENT PROJECT APPLICATIONS:

A. Any qualifying entity meeting the definition set forth above may propose an economic development project to the City of Sunland Park. Meeting the definition of a qualifying entity does not create any obligation on the part of the City of Sunland Park.

B. Applications from qualifying entities shall be submitted to the City of Sunland Park on forms provided by the City of Sunland Park.

C. The City of Sunland Park's evaluation of an application shall be based on the provisions of the economic development plan, the financial and management stability of the qualifying entity, the demonstrated commitment of the qualifying entity to the community, a cost-benefit analysis of the project and any other information deemed necessary for a full review of the economic development project application.

D. The City of Sunland Park may negotiate with a qualifying entity on the type or amount of assistance to be provided or on the scope of the economic development project.

E. Projects shall be approved by ordinance. (Ord. 2014-08, 12-16-2014)

3-6-7: PROJECT PARTICIPATION AGREEMENT; DUTIES AND REQUIREMENTS:

A. The qualifying entity shall enter into a project participation agreement with the City of Sunland Park.

B. Public support provided for an economic development project shall be in exchange for a substantive contribution from the qualifying entity. The contribution shall be of value and may be paid in money, in-kind services, jobs, expanded tax base, property or other thing or service of value for the expansion of the economy.

C. The qualifying entity shall provide security to each local or regional government, the state or any other New Mexico governmental entity providing public support for an economic development project. The security shall secure the qualifying entity's obligations based on terms stated in the project participation agreement with the local or regional government and shall reflect the amount of public support provided to the qualifying entity and the substantive contribution expected from the qualifying entity.

D. If a qualifying entity fails to perform its substantive contribution, each local or regional government shall enforce the project participation agreement to recover that portion of the public support for which the qualifying entity failed to provide a substantive contribution. The recovery shall be proportional to the failed performance of the substantive contribution and shall take into account all previous substantive contributions for the economic development project performed by the qualifying entity, based on the terms stated in the project participation agreement. The project participation agreement for an economic development project that uses public support provided by the state to a local or regional government shall include a recapture agreement for the state.

E. The project participation agreement at a minimum shall set out:

1. The contributions to be made by each party to the participation agreement;

2. The security provided to each governmental entity that provides public support for an economic development project by the qualifying entity in the form of a lien, mortgage or other indenture and the pledge of the qualifying business's financial or material participation and cooperation to guarantee the qualifying entity's performance pursuant to the project participation agreement;

3. A schedule for project development and completion, including measurable goals and time limits for those goals; and

4. Provisions for performance review and actions to be taken upon a determination that project performance is unsatisfactory. (Ord. 2014-08, 12-16-2014)

3-6-8: PROJECT REVENUES; SPECIAL FUND; ANNUAL AUDIT:

A. Local or regional government revenues dedicated or pledged for funding or financing of economic development projects shall be deposited in a separate account. Separate accounts shall be established for each separate project. Money in the special account shall be expended only for economic development project purposes, which may include the payment of necessary professional services contract costs.

B. In the case of a regional government, revenues of each local government dedicated or pledged for economic development purposes shall be deposited in a special account of that local government and may be expended only by that local government as provided by the regional government's economic development plan and joint powers agreement.

C. The local or regional government shall provide for an annual independent audit in accordance with the Audit Act (NMSA §§ 12-6-1 to 12-6-14) of each special fund and project account. The audit shall be submitted to the local or regional government. The audit is a public record. (Ord. 2014-08, 12-16-2014)

3-6-9: PLAN AND PROJECT TERMINATION:

A. At any time after approval, the governing body of the City of Sunland Park may enact an ordinance terminating the economic development plan and dissolving or terminating any or all projects. An ordinance repealing an economic development plan shall not be effective unless the ordinance provides for satisfying existing contracts and the rights of the parties arising from those contracts.

B. Any unexpended and unencumbered balances remaining in any project fund or account upon repeal of a plan and termination or dissolution of a project may be transferred to the general fund of the local government holding the fund or account. In the case of funds or accounts of a regional government, the unexpended and unencumbered balances shall be divided among the local governments as provided in the joint powers agreement. (Ord. 2014-08, 12-16-2014)

CHAPTER 7

STREET VENDORS

SECTION:

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3-7-24: Additional Penalties

3-7-1: **SHORT TITLE:** This chapter may be cited as the "Street Vendor Regulations of the City of Sunland Park". (Ord. 2005-03, 4-5-2005)

3-7-2: **PURPOSES:** The purpose of the Street Vendor Regulations of the city is to control the undesirable effects of the street vending industry in order to protect the health, welfare and safety of the residents of the city; and promote the order, comfort and convenience of the city and its inhabitants. (Ord. 2005-03, 4-5-2005)

3-7-3: **AUTHORITY:** This chapter is adopted pursuant to Sections 3-17-1 (B) and 3-21-1 (A) and (B) NMSA 1978. (Ord. 2005-03, 4-5-2005)

3-7-4: **DEFINITIONS:** For the purposes of this chapter, certain words and phrases shall be defined as set forth in this section, unless it is apparent from the context that a different meaning is intended. Any word not defined herein shall be used as defined in this code. If the word is not defined in this code, the word shall be used as defined in Webster's Unabridged Dictionary, latest edition.

APPROVED LOCATION:	A site approved by the city planner from which a vendor operating from a pushcart or vehicle may sell his/her products.
AUTHORITY:	The city planner or those persons assigned by the city planner to perform in his or her stead or such other persons appointed by the mayor.
CITY:	The City of Sunland Park, New Mexico.
FOOD:	A prepared edible product that can be eaten at the location of the sale of said product. This definition excludes natural products such as fruit, vegetables and herbs.
HAWKER:	A peddler who carries goods for sale and seeks purchasers either by shouting or by attracting notice and attention to the goods for sale by bells, the sound of a horn, or other means.
HEALTH DEPARTMENT:	The applicable state or county government department responsible for regulating food vendors.
OWNER:	Any person who owns or controls one (1) or more pushcarts and: A. Conducts or permits or causes the operation of such vehicles vending food, beverage or other product; B. Owns, operates, controls, manages or leases such vehicles; or C. Contracts with persons to vend food, beverage or other product from such vehicles.
PEDDLER:	Any person who goes from house to house or from place to place seeking to make concurrent sale and delivery of the goods, wares and merchandise of any nature whatsoever.

3-7-4

PUSHCART: Any human- or animal-propelled wheeled conveyance which contains food items, goods, wares or merchandise, or other nonfood items sold or solicited.

SOLICITOR: A drummer or canvasser or any other person who goes from place to place or from house to house taking or attempting to take orders from the sale of goods, wares or merchandise of any nature whatsoever for future delivery or services of any nature whatsoever to be furnished or performed in the future, whether or not such individual has a sample and whether or not he or she is collecting advance payments.

STREET VENDOR: A generic term that includes all vendors, hawkers, peddlers, solicitors, food vendors, pushcart vendors, foot vendors, catering truck vendors, transient merchants and itinerant merchants as defined herein.

TRANSIENT OR ITINERANT MERCHANT: Any person who establishes himself or herself in business with the intention to remain in business for a short period of time only, whether such period is a definite or indefinite one, or until a particular stock of goods, wares or merchandise is disposed of, or until the local market for the goods, wares or merchandise handled by the dealer has been exhausted, and who for such limited period engages or occupies a building or other place for the exhibition and sale of the goods, wares or merchandise.

VEHICLE: Any truck, trailer, pushcart, cart, wagon, conveyance or structure not permanently fixed to a permanent foundation and which may be moved under its own power, towed by a motor vehicle or carried upon or in a motor vehicle or trailer. This definition includes those vehicles known as CATERING TRUCKS.

VENDING: The business of selling or causing to be sold for cash or consideration of any items such as nonfood, food or food products or edibles of any type, whether hot, cold, freshly prepared, or packaged.

VENDING EQUIPMENT:	Tools, machines, umbrellas, chairs, tables, food or food products, etc., related to vending.
VENDOR:	A person who is in the business of vending and/or his or her employee(s).
VEND or VENDING:	Offering food, beverage or product of any kind for sale from a vehicle on any sidewalk, street, alley, highway or unenclosed place open to the public, whether publicly or privately owned.
VENDOR'S PERMIT:	The permit issued to any person who operates as a street vendor on any sidewalk, street, alley, highway, or public place within the city. (Ord. 2005-03, 4-5-2005)

3-7-5: **PERMIT REQUIRED:**

A. No person, whether or not the person maintains or is employed at an established place of business or by a person who is permitted pursuant to this chapter, shall engage in the business of street vendor without first obtaining a vendor's permit.

B. A vendor's permit is not transferable and shall be valid for not more than one (1) year from the date of issuance.

C. The authority shall not issue a vendor's permit to a food vendor until the applicant for a vendor's permit provides proof to the city that he/she/it has obtained a health department permit for the vehicle to be used. (Ord. 2005-03, 4-5-2005)

3-7-6: **PERMIT; TEMPORARY.** The authority may issue temporary permits for short duration sales under the following criteria:

A. No temporary permit may be issued for a period longer than thirty (30) days.

B. No more than three (3) temporary permits may be issued per year to the same applicant.

C. The applicant for a temporary permit must comply with all the requirements in this chapter except section 3-7-10. (Ord. 2005-03, 4-5-2005)

3-7-7: **EXCEPTIONS:** The provisions of this chapter shall not apply to wholesale salespersons who sell to established places of business. (Ord. 2005-03, 4-5-2005)

3-7-8: **APPLICATION:** Any person desiring to obtain a vendor's permit required by this chapter shall appear personally before the authority and make a written application to the authority stating the following information:

A. The name and description of the applicant or organization with proper identification;

B. The permanent home address of the applicant and/or the address of the organization;

C. A complete and detailed description of the business to be conducted;

D. The name and address of the employee, or individuals designated as street vendors if any;

E. A statement as to whether or not the applicant has been convicted of any felony, the nature of the offense and the punishment or penalty assessed;

F. A statement as to the number of vehicles to be used in conducting the business. The statement shall include the make, model, year, vehicle license number, and registered owner's name and address;

G. Location where vendor intends to store the vehicle and/or vending equipment;

H. Plans for provisions to collect and store litter and dispose of it;

I. A dimensioned drawing indicating the size of the vending equipment, and vehicle the applicant proposes to use;

J. The applicant must show proof that the vehicle (if it is a vehicle as defined by the state Vehicle Code) that is to be used for vending is properly registered in the State of New Mexico or other state and has the minimum liability insurance required by the State of New Mexico;

K. The driver of the vehicle in subsection J. above must show proof that he/she is legally licensed to drive the type of vehicle in question;

L. The applicant for a vendor's permit that is to be located (with approval of an SUP) on private property must show written proof that the property owner has granted permission to the applicant to locate the vehicle on said property.

M. Vendors wishing to locate a vehicle on private property on a semipermanent basis (with approval of an SUP) may only do so on property zoned C-2, M-1 or M-2. (Ord. 2005-03, 4-5-2005)

3-7-9: **FEE:** The fee for obtaining any permit required by this chapter shall be established by resolution of the city council. Fees are payable to the issuing authority upon acceptance of the application. (Ord. 2005-03, 4-5-2005)

3-7-10: **PHOTOGRAPHING/FINGERPRINTING:** Applicants shall personally appear at the police department of the city for photographing and fingerprinting and produce proof that the required application fee has been paid and present the application containing the information and supporting documentation required by this chapter. (Ord. 2005-03, 4-5-2005)

3-7-11: **APPROVAL AUTHORITY:** If the authority finds that the application complies with all the requirements of this chapter, the vendor's permit shall be approved. (Ord. 2005-03, 4-5-2005)

3-7-12: **MULTIPLE BUSINESSES:**

A. Every person who is required to obtain a permit pursuant to this chapter must obtain a permit for each business if more than one (1) business is being conducted.

B. A permittee shall not engage in any business not designated on the permit and shall not engage in any business for an employer not designated on the permit, unless and until the permittee obtains another permit for that business or employer. (Ord. 2005-03, 4-5-2005)

3-7-13: **PERMIT IDENTIFICATION CARD REQUIRED:** Every person who is required to obtain a permit pursuant to this chapter must wear an identification card (hereafter called "card") issued by the authority, while engaged in the business for which he/she/it is permitted. The card must be worn on the upper left hand portion of the torso, clipped or attached to the outer garment, and shall remain visible at all times. The card shall exhibit the person's photograph and pertinent permitted information deemed appropriate by the authority. (Ord. 2005-03, 4-5-2005)

3-7-14: **LOCATION RESTRICTIONS:**

A. No person required to obtain a permit pursuant to this chapter shall conduct the business for which they are permitted within one thousand (1,000) feet of any public or private school or church, or five hundred (500) feet from any government building, government facility or public park.

B. The prohibition of this section does not apply to any person invited in writing to call upon any elementary or secondary public or private school by the principal of the school.

C. Street vendors are allowed to operate in or on city facilities when invited to do so by the city for special events. (Ord. 2005-03, 4-5-2005)

3-7-15: **OPERATING STANDARDS:** No vendor shall stop, stand or park any vehicle from which non-food and or foodstuffs are displayed, offered for sale or sold, upon any portion of any public street, alley or highway within the city except as allowed by a special use permit or in compliance with all of the following:

A. Stopping To Sell – Time Limit: Street vendors shall stand or park only at the request of a bona fide customer or purchaser and for a period of time not exceeding five (5) minutes at any one (1) place. The time limit may be waived by the city when the vendor has been invited by the city to participate in a special event on or off city property.

B. Stopping To Sell – Posted Speed Limit: No street vendor shall stand or park when the posted speed limit on the public street, alley or highway is thirty-five (35) miles per hour or greater.

C. Stopping To Sell – Position of Vehicle: No street vendor shall stand or park or engage in vending when:

1. Any part of the vehicle other than the side of the vehicle next to the right side of the street, alley or highway is open to prospective customers;

2. The vehicle is not stopped, parked or standing on the extreme right of the street, alley or highway;

3. The prospective customer is located on or in that portion of the street, alley or highway which is open to vehicular traffic.

D. The prospective customer is in a standing vehicle, or sitting in or operating another vehicle.

E. The vehicle is stopped, standing or parked not in violation of any other provision of this code or the New Mexico Vehicle Code.

F. The position or location of the vehicle does not interfere with the free passage of any vehicular or pedestrian traffic.

G. Vehicle – Weight Limit: Vending vehicles shall have a gross weight of less than five thousand (5,000) pounds.

H. Vehicles – Noise Making Devices: Noise emitted from vending vehicles shall conform to title 4 of this code requirements. No vendor shall use noise making devices after 8:00 p.m. in residential zones.

I. Vehicles - Lights Flashing, Blinking And Moving: Vehicles may be illuminated provided that they do not make use of lights to convey the effect of movement or flashing intermittent or variable intensity. Lighting shall not be used to call attention to the vehicle.

J. Hours Of Operation: The permitted hours for operation of street vendors are as follows:

1. In commercial/industrial zones 6:00 a.m. to 11:00 p.m.

2. In residential zones 9:00 a.m. to 9:00 p.m.

K. Vehicle – Operation: Each individual who drives, operates or vends from a food vending vehicle shall not allow any minors to ride in or on the vehicle while it is in operation; allow more than two (2) individuals to be in or on the vehicle while it is in operation; nor attempt to back up the vehicle to make a sale. All motorized vehicles shall have a sign which states "CAUTION CHILDREN." The sign shall have yellow letters which are at least eight inches (8") high on a white background and shall be located at the rear and front of the vehicle.

L. Refuse: A refuse container of at least one (1) cubic foot shall be provided in or on the vehicle. All vendors are responsible for keeping the area within one hundred feet (100') of their vehicle free of trash. In the case of a semi-permanently located food vending vehicle with an approved SUP the applicant must provide at least one (1) thirty (30) gallon trash receptacle which must be emptied every day in the commercial trash bin provided by the host property owner or another approved location.

M. No vendor shall cause more than two (2) vehicles to assemble, gather, collect or otherwise join for any purpose on any street, sidewalk, highway or public place within twenty feet (20') of each other. (Ord. 2005-03, 4-5-2005)

3-7-16: **VEHICLE TAGS:** Every person who is required to obtain a permit by this chapter shall obtain a vehicle tag (from the authority) for each vehicle used for vending purposes at the time the permit is issued. All vehicles for which tags are issued shall display the tag on the exterior lower rear right hand portion of the vehicle. (Ord. 2005-03, 4-5-2005)

3-7-17: **SPECIAL USE PERMIT:**

A. Street vendors may request in writing to the authority that a special use permit be issued to allow vendor vehicles to stop for longer periods of time than specified herein.

B. When a special use permit (SUP) has been duly applied for, it shall be processed in the same manner as specified in title 10 of this code.

C. When a special use permit is approved by the authority, the conditions of approval of the special use permit shall take into consideration the regulations and standards of this chapter. However, the special use permit may supersede said regulations and standards at the discretion of the planning and zoning commission ("PCZ"). If the commission supercedes the regulations contained herein, they shall make specific findings related to the rationale used to vary from said regulations.

D. Special use permits may be granted for a period of time as specified by the PCZ. Subsequent special use permits shall be required to submit a new application and related fees. (Ord. 2005-03, 4-5-2005)

3-7-18: **"NO SOLICITORS" SIGNS:** It is unlawful for any solicitor or other street vendor to solicit business on private property that has a "No Solicitors" sign prominently displayed. (Ord. 2005-03, 4-5-2005)

3-7-19: **SALE OF SEXUALLY ORIENTED MATERIAL:** Sale of sexually oriented material or products from a vehicle or through a street vendor license is prohibited. This code regulates the sale of such material, see title 10. (Ord. 2005-03, 4-5-2005)

3-7-20: **APPEALS:**

A. The decision of the authority to revoke the vendor's permit of any street vendor may be appealed to the city council. The appeal shall be made in writing and filed with the city clerk within ten (10) working days following receipt of the written revocation decision from the authority.

B. The authority shall, upon receipt of such appeal, set the matter for hearing before the city council not less than ten (10) nor more than thirty (30) days following the filing of the appeal. Notice of meeting shall be given by deposit in the United States mail or by personal delivery at least five (5) days prior to the meeting.

C. At the time and place of meeting, the city council shall hear and consider all relevant evidence including, but not limited to, the report of the authority and any written or oral testimony. The meeting may be continued at the discretion of the city council.

D. Upon the conclusion of the public meeting, the city council shall, on the basis of the evidence presented at the meeting, determine whether the street vendor's permit shall be revoked. (Ord. 2005-03, 4-5-2005)

3-7-21: **IMPOUNDING:** A vehicle may be impounded by a police officer, or by any other person(s) authorized to enforce this chapter pursuant to this chapter, in the course of an arrest of the operator for a violation of this chapter when the vehicle is to be used as evidence of the violation. (Ord. 2005-03, 4-5-2005)

3-7-22: **MISDEMEANOR VIOLATION:** Pursuant to title 1, chapter 4 of this code, unless a lesser maximum penalty or a specific penalty is established by ordinance for a particular offense, the maximum penalty for violation

of this chapter shall be a fine of not more than five hundred dollars ($500.00) or imprisonment for not more than ninety (90) days or both. (Ord. 2005-03, 4-5-2005)

3-7-23: **MODIFICATIONS, SUSPENSION AND/OR REVOCATION OF VALIDLY ISSUED PERMIT AND/OR LICENSE:** A violation of this chapter by the holder of any city permit and/or city license validly issued pursuant to this or any other chapter shall constitute grounds for modification, suspension and/or revocation of said permit and/or license. (Ord. 2005-03, 4-5-2005)

3-7-24: **ADDITIONAL PENALTIES:** Nothing in this chapter shall preclude the city from pursuing the remedies provided by this code, including but not limited to, as applicable, denial or revocation of certificates of occupancy, issuance of stop work orders and injunctive relief. (Ord. 2005-03, 4-5-2005)

TITLE 4

PUBLIC HEALTH AND SAFETY

Subject	Chapter
Hazardous Materials.	1
Transportation And Storage; Inventory.	1A
Inventory; Disclosure; Medical Waste Disposal . . .	1B
Solid Waste..	2
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CHAPTER 1
HAZARDOUS MATERIALS
ARTICLE A. TRANSPORTATION AND STORAGE; INVENTORY

SECTION:
4-1 A- 1: Definitions
4-1A- 2: Exceptions
4-1A- 3: Vehicles Used For Carrying; Travel Routes
4-1A- 4: Parking
4-1A- 5: Inventory And Disclosure Statement
4-1A- 6: Declaration Of Inventory
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4-1A- 8: Site Inspection
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4-1A-10: Applicability Of Standards To Facilities
4-1A-11 : Certification Of Compliance
4-1A-12: Violation; Penalty

4-1A-1 : DEFINITIONS:
A. The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:
CLASS A Extremely dangerous poisonous gases or
POISONS: liquids of such nature that a very small amount of gas, or vapor of the liquid, mixed with air is dangerous to life.
CLASS B Less dangerous poisonous liquids or solids
POISONS: (including pastes or semiliquids) that are less dangerous than Class A poisons and that are chiefly dangerous by external contact with the body or by being taken internally, as in contaminated foods or feeds. The vapors of

some of this class of poison are also offensive and dangerous, but to a lesser extent than Class A poisons.

CLASS C POISONS: Tear gas or irritating substances in liquid or solid form which give off dangerous or intensely irritating fumes when exposed to air or upon contact with fire.

CLASS D POISONS: Radioactive material and substances which spontaneously emit radiations which are capable of penetrating and severely damaging living tissues and surrounding shipments.

COMPRESSED GAS: Any material or mixture having in the container a pressure exceeding forty (40) pounds per square inch at seventy degrees Fahrenheit (70°F); or a pressure exceeding one hundred four (104) pounds per square inch at one hundred thirty degrees Fahrenheit (130°F); or any liquid flammable material having a vapor pressure exceeding forty (40) pounds per square inch at one hundred degrees Fahrenheit (100°F). I

CORROSIVE MATERIAL: Any liquid or solid which will cause severe damage to living tissue and to freight by chemical action when in contact therewith. Liquids which may also cause fire when in contact with organic matter or certain chemicals.

EXPLOSIVE: Any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion.

FLAMMABLE LIQUIDS: Any liquid which gives off flammable vapors.

FLAMMABLE SOLIDS: Solids, other than explosives, which are liable to cause fires through friction, through absorption of moisture, through spontaneous chemical changes, or as a result of retained heat from the manufacturing or processing of the commodity.

OXIDIZING MATERIAL: Substances that yield oxygen readily to stimulate the combustion of organic matter.

RECREATIONAL VEHICLE: A vehicle which is composed of a chassis, or frame with wheels, which either has its own mode of power or is drawn by another vehicle and a camping body primarily designed or converted for use as temporary living quarters for recreation, camping or travel activities. (Ord. 1992-08, 10-23-1992)

4-1 A-2: EXCEPTIONS: This Article shall not apply under the following conditions and circumstances:

A. Delivery To Customers Located Within City: When any truck, trailer, motor vehicle or any other form of vehicle is carrying any of the material defined in Section 4-1A-1 of this Article to commercial consumers, domestic consumers, gasoline service stations or bulk stations located within the corporate limits of the City.

B. Propelling Vehicle: When any truck, trailer, motor vehicle or any other form of vehicle is carrying any of the materials defined in Section 4-1A-1 of this Article for the sole purpose of propelling the truck, trailer or motor vehicle.

C. Necessary Repairs While Loaded; Notify Police: When any truck, trailer, motor vehicle or any other form of vehicle loaded or partly loaded with any of the products defined in Section 4-1A-1 of this Article has stopped on any of the streets or highways designated as provided in Section 4-1A-3 of this Article at a gasoline service station or garage for necessary repairs. Under this circumstance the vehicle shall not remain at the gasoline service station or garage longer than thirty (30) minutes unless the Police Department is notified that it is necessary to remain for a longer period than thirty (30) minutes.

D. Forced Stoppage; Conditions Allowing Repairs On Street: When any truck, trailer, motor vehicle or any other form of vehicle used for carrying any of the products defined in Section 4-1A-1 of this Article has broken down, has a flat tire, needs repair, needs gasoline for its own propulsion to the extent that it cannot be propelled with its own power, then the necessary repairs can be made where the vehicle has been forced to stop, provided the vehicle can be repaired within a period of two (2) hours. The driver of the vehicle shall immediately

notify the Police Department of the forced stoppage and during the period allowed for repair, a policeman or someone designated by him shall remain at the place of stoppage to warn other persons using the street or highway of the danger.

E. Immediate Repair Of Empty Vehicle: When any truck, trailer, motor vehicle or any other form of vehicle needs immediate repairs and is not loaded or partially loaded with any of the products defined in Section 4-1A-1 of this Article and is on direct route to a garage or to the private property or place of business of the owner of the vehicle or the owner's place of business exclusively controlled by the owner.

F. Breakdown Requiring Towing; Police Direction: When any truck, trailer, motor vehicle or any other form of vehicle is loaded or partially loaded with any of the products defined in Section 4-1A-1 of this Article; the vehicle has broken down and is in need of repair to the extent that the vehicle cannot be repaired within two (2) hours. The Police Department shall be notified that the vehicle is being removed from the place of stoppage or breakdown to a garage or some other place within the corporate limits of the City and shall only be moved under the direction of the Police Department.

G. Owner With Place Of Business Within City: When any person who is engaged in the business of hauling any of the materials defined in Section 4-1A-1 of this Article has his place of business within the corporate limits of the City, he shall have a right to convey the truck, trailer, motor vehicle or any other form of vehicle to his place of business without police protection. (Ord. 1992-08, 10-23-1992)

4-1A-3: VEHICLES USED FOR CARRYING; TRAVEL ROUTES: It shall be unlawful for any person to drive or cause to be driven or operate or maintain any motor vehicle, truck, trailer or any other vehicle except recreational vehicles having thereon or attached thereto a tank or other receptacle used for the carrying of any of the materials defined in Section 4-1A-1 of this Article over any street, highway or alley within the corporate limits of the City, except: (Ord. 1992-08, 10-23-1992)

A. Those streets shown on Exhibit A attached to Ordinance 1992-08, on file in the office of the City Clerk-Treasurer, and incorporated herein by reference. (Ord. 1992-08, 10-23-1992; amd. 2000 Code)

B. Other streets officially marked. Other streets may be traveled upon when, in the opinion of the Chief of Police, the safety of the property and its citizens demands it and when they are designated with the

approval of the Chief of Police by visible markers and signs. (Ord. 1992-08, 10-23-1992)

4-1A-4: PARKING:

A. It shall be unlawful for any person to park or cause to be parked on the highway, street or alley within the corporate limits of the City any truck, trailer, motor vehicle or other form of vehicle except recreational vehicles having thereon or attached thereto a tank or other receptacle used for carrying any of the materials defined in Section 4-1A-1 of this Article, whether loaded, partially loaded or empty of such products. This subsection shall not apply to the stopping of any vehicle on any of the streets and highway designated in Section 4-1A-3 of this Article at filling stations for service or because of breakdown of the vehicle on the designated streets or highways.

B. It shall be unlawful for any person to park or cause to be parked or to maintain any truck, trailer, motor vehicle or any other form of vehicle except recreational vehicles having thereon or attached thereto a tank or other receptacle filled or partially filled with any of the materials defined in Section 4-1A-1 of this Article on any street, alley, public place or at any place within the corporate limits of the City. (Ord. 1992-08, 10-23-1992)

4-1A-5: INVENTORY AND DISCLOSURE STATEMENT: It shall be unlawful for any person to possess or keep on any premises within the City any hazardous materials and chemicals that shall have been defined as such by the United States Environmental Protection Agency or the State Environmental Improvement Division, or both. The Fire Chief or his designee shall be responsible, on or before December 1 of every year, to acquire from the New Mexico Department of Public Safety and the Environmental Improvement Division information with regard to chemicals and products defined by them as being hazardous and shall make such information available, without charge, to all citizens of the City and to all persons or entities doing business within the City limits. Such information shall be recorded with the City Clerk-Treasurer on or before December 10 of each year, and the list shall be in effect for the following year, but no list shall become obsolete until its successor is recorded. (Ord. 1992-08, 10-23-1992; amd. 2000 Code)

4-1A-6: DECLARATION OF INVENTORY:

A. Report To Fire Department Annually: All persons, businesses or other entities possessing any of the products on the above-referenced list must declare their inventory of such chemicals or products with the Fire Chief on or before March 15 of each year, commencing in 1992. An updated report of new or additional chemicals added to inventory within the year must be reported to the Fire Chief within fifteen (15) days of chemical acquisition.

B. Business Registration Applicant; Provide Inventory: Any person filing for business registration shall complete the inventory at that time, such list to be filed with the Fire Chief on a form to be approved by him/her. (Ord. 1992-08, 10-23-1992; amd. 2000 Code)

C. Indicate Manner Of Disposal: Any person or entity so filing shall also indicate the method by which such hazardous waste or chemicals or any hazardous waste or chemicals generated on site therefrom are to be disposed of.

D. No Filing Fee Required: There shall be no filing fee for the filing of such declarations. (Ord. 1992-08, 10-23-1992)

4-1A-7: MISSTATEMENT ON INVENTORY; PENALTY: Knowing or reckless misstatement on the declaration is declared to be a violation of this Article and is punishable to the maximum extent permitted under laws of the State. Each separate occurrence shall be a separate violation. Provided that

such violation is not knowing, intentional or reckless, the maximum punishment for a violation for the first year after the effective date hereof shall be a fine equal to the costs to the City of the enforcement action in question, not to exceed three hundred dollars ($300.00) per occurrence. (Ord. 1992-08, 10-23-1992)

4-1A-8: SITE INSPECTION: Inspection of each site on which materials are stored or disposed of shall be made at least annually by the Chief of Police or his designee. The City Council, by ordinance, may adopt regulations establishing classification of materials by the nature of the material, the quantity stored, the area in which stored, and the potential for contamination of ground water or any other significant factor which would increase the frequency of inspection according to the characteristics detailed in the regulations. (Ord. 1992-08, 10-23-1992)

4-1 A-9: ADOPTION OF STANDARDS; ENFORCEMENT:

A. Adoption Of Standards And Amendments: The standards of the National Fire Protection Agency (NFPA) Rule 704, are specifically adopted and incorporated herein by reference. Amendments, revisions or other updates of this rule may be adopted by resolution by the City Council.

B. Enforcement: The standards adopted herein and such amendments, updates or revisions thereof as may be adopted by resolution of the City Council shall be enforced by the Chief of Police. (Ord. 1992-08, 10-23-1992)

4-1A-10: APPLICABILITY OF STANDARDS TO FACILITIES: The standards shall be applicable to all facilities, as follows:

A. Those facilities which commence storage, manufacture or use of hazardous materials after February 15, 1992, must comply with the standards upon the effective date hereof.

B. Those facilities which expand their physical plant for storage, manufacture or use of hazardous materials after February 15, 1992, or which add additional hazardous materials or increase their inventory or output of hazardous materials by at least fifteen percent (15%) after February 15, 1992, must comply with the standards upon the date of such expansion, addition or increase.

C. Those facilities which, before February 15, 1992, were of the type covered by the standards adopted herein but which do not come under subsection A of this Section must comply with the standards adopted herein within ninety (90) days of the effective date hereof. (Ord. 1992-08, 10-23-1992)

4-1A-11: CERTIFICATION OF COMPLIANCE: It is the responsibility of persons in control of all facilities subject to this Article to file a certification of compliance with this Article with the Fire Chief on or before the March 15 for each calendar year or within thirty (30) days of the commencement of activities bringing the facility under this Article. Such certification shall be on a form acceptable to the Fire Chief and such forms shall be made available as in subsection 4-1A-6B of this Article. There shall be no charge for the filing of this certification, which shall be filed with the Fire Chief. (Ord. 1992-08, 10-23-1992; amd. 2000 Code)

4-1A-12: VIOLATION; PENALTY: Violations of this Article as it pertains to NFPA Rule 704 standards or to any certifications or filings required under this Article shall be punishable as a misdemeanor. (Ord. 1992-08, 10-23-1992)

CHAPTER 1
HAZARDOUS MATERIALS
ARTICLE B. INVENTORY; DISCLOSURE;

MEDICAL WASTE DISPOSAL

SECTION:

4-1B- 1: 4-1B- 2: 4-1B- 3: 4-1B- 4: 4-1B- 5: 4-1B- 6: 4-1B- 7: 4-1B- 8: 4-1B- 9: 4-1B-10: 4-1 B-11: 4-1B-12: 4-1B-13: 4-1 B-14:
Title
Annual Declaration Of Inventory
Definitions
Hazardous Medical Wastes Identified
Business Facilities Involving Medical Wastes Identified Forms For Inventory Lists
Disclosure Of Disposal Method Required
Appropriate Methods For Disposal; Tracking Procedure Appropriate Procedures Regarding Medical Waste
No Filing Fee Required Inspections Required
Statement Of Compliance Required
NFPA 704 Standards Penalties

4-1B-1: TITLE: This Article shall be known as the CITY OF SUNLAND PARK HAZARDOUS MATERIAL/CHEMICAL INVENTORY/DISCLOSURE AND MEDICAL WASTE TRACKING AND DISPOSAL ORDINANCE. (Ord. 1993-09, 9-20-1993)

4-1B-2: ANNUAL DECLARATION OF INVENTORY: All persons, businesses or other entities, possessing any of the products on the referenced lists under Sections 4-1B-3 and 4-1B-4 of this Article must declare their inventory of such chemicals, products, or wastes on or before March 15 of each year, commencing in 1994, and an updated report reference to new or additional chemicals added to the inventory within the year must be reported within fifteen (15) days. (Ord. 1993-09, 9-20-1993)

City of Sunland Park

4-1B-3 4-1B-3

4-1 B-3: DEFINITIONS:

HAZARDOUS MATERIAL/ CHEMICAL: This Article shall apply to hazardous materials and chemicals that shall have been defined by the Environmental Protection Agency of the United States Government, or the State of New Mexico Environment Department, or both. The City Clerk-Treasurer, or the designee of such official (herein called the "responsible official"), shall be responsible, on or before December 1 of every year, to acquire from the New Mexico Department of Public Safety and the New Mexico Environment Department, a list of chemicals and products defined by them as being hazardous, and shall make such information available, without charge, to all citizens of the City of Sunland Park, and to all persons or entities doing business within the City of Sunland Park. Such information shall be recorded with the office of the City Clerk-Treasurer on or before December 10 of each year, and the list so recorded shall be in effect for the following year, but no list shall become obsolete until its successor is recorded.

HAZARDOUS WASTE: This Article shall apply to "hazardous waste" as defined in the Hazardous Waste Act' and to be any solid waste or combination of solid wastes which because of their quantity, concentration or physical, chemical or infectious characteristics may: a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed. The term "hazardous waste" does not

include any of the following, until the New Mexico Environment Department Board determines that they are subject to subtitle C of the Resource Conservation and Recovery Act,

1. NMSA § 74-4-1 et seq.

as amended (42 USC 6921 et seq.): drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil or natural gas or geothermal energy, any fly ash waste, bottom ash waste, slag waste, flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels, solid waste from the extraction, beneficiation or processing of ores and minerals, including phosphate rock and overburden from the mining of uranium ore or cement kiln dust waste.

MEDICAL WASTE: Any solid waste which is generated in the diagnosis, treatment (e.g., provision of medical services), or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals. The term does not include any hazardous waste identified or listed under 40 CFR part 261 or any household waste as defined in 40 CFR subsection 261.4(b)(1). (Ord. 1993-09, 9-20-1993; amd. 2000 Code)

4-1 B-4: HAZARDOUS MEDICAL WASTES IDENTIFIED: The focus is on wastes which have been improperly managed and are most likely to pose a substantial threat to human health and the environment. However, any additional waste that a health care professional believes may pose a risk should be handled as a hazardous medical waste. This Article covers the following items:

A. Biologicals: Preparations made from living organisms and their products, including vaccines, cultures, etc., intended for use in diagnosing, immunizing, or treating humans or animals, or in related research.

B. Blood Products: Any product derived from human blood, including, but not limited to, blood plasma, platelets, red or white blood corpuscles, and other derived licensed products such as interferon in a quantity over fifty milliliters (50 ml); this includes blood soaked material or dressings.

C. Animal Waste: Contaminated animal carcasses, body parts, and bedding of animals that were known to have been exposed to

infectious agents during research in veterinary hospitals, production of biologicals, or testing of pharmaceuticals.

D. Human Pathological Wastes: Include tissues, organs, and body parts that are removed during surgery or autopsy or other medical procedures.

E. Sharps: Sharps that have been used in animal or human patient care or treatment or in medical, research, or industrial laboratories. These include hypodermic needles, Pasteur pipettes, scalpel blades, blood vials, needles with attached tubing, and culture dishes (regardless of presence of infectious agents). Also included are other types of broken or unbroken glassware that were in contact with infectious agents, such as used slides and cover slips.

F. Infectious Agent: Any organism (such as a virus or a bacteria) that is capable of being communicated by invasion and multiplication in body tissues and capable of causing disease or adverse health impacts in humans.

G. Infectious Waste: A limited class of substances that carry a risk of transmitting disease, including, but not limited to: microbiological laboratory wastes, including cultures and stocks of infectious agents from clinical research

and industrial laboratories, and disposable culture dishes; pathological wastes, including human or animal tissues, organs and body parts, removed during surgery, autopsy or biopsy; blood and blood products over fifty milliliters (50 ml), including waste blood, blood serum, and plasma; used sharps, including used hypodermic needles, scalpel blades, Pasteur pipettes and broken glass; and contaminated animal carcasses, body parts, especially those intentionally exposed to pathogens in research, in the production of biological or in the "in vivo" testing of pharmaceuticals.

H. Cultures And Stocks: Of infectious agents and associated biologicals, including: cultures from medical and pathological laboratories; cultures and stocks of infectious agents from research and industrial laboratories; wastes from the production of biologicals; discarded live and attenuated vaccines; and culture dishes. (Ord. 1993-09, 9-20-1993)

4-1 B-5: BUSINESS FACILITIES INVOLVING MEDICAL WASTES IDENTIFIED: The following are identified as business facilities involving medical wastes: physician and dental offices;

veterinarians; blood/plasma centers; laboratories and research laboratories; funeral homes; health maintenance organizations; acupuncturists; dialysis, free, community, employee, surgical, eye and urgent care clinics; laundry facilities; acute psychiatric hospitals; in-patient care facilities for the developmentally disabled; skilled nursing facilities or convalescent hospitals; intermediate care facilities; general acute care hospitals; and medical waste transporting, storage, treatment and disposal facilities. (Ord. 1993-09, 9-20-1993)

4-1B-6: FORMS FOR INVENTORY LISTS: The list of the inventory shall be filed on a form to be approved by the responsible official and made available, at no charge, to members of the public. Appropriate tracking forms for medical wastes and the hazardous material/chemical waste disposal form will also be made available by the office of the City Clerk-Treasurer, at no charge to members of the public. (Ord. 1993-09, 9-20-1993)

4-1 B-7: DISCLOSURE OF DISPOSAL METHOD REQUIRED: Any person or entity so filing shall also indicate the method and/or provide supporting documentation as mentioned under Section 4-1B-6 of this Article, by which such hazardous waste, chemicals, or medical waste generated therefrom are to be disposed of appropriately. (Ord. 1993-09, 9-20-1993)

4-1 B-8: APPROPRIATE METHODS FOR DISPOSAL; TRACKING PROCEDURE: A tracking form which accompanies the waste is signed and a copy is retained by a representative of the waste generator and each transporter, transfer station, and treatment, destruction, and disposal facility handling it. When the final disposer (the destination facility) accepts the waste, a copy of the signed tracking form is returned to the generator. In this way the generator is assured that the waste was received for disposal. The tracking system includes "exception" and "discrepancy" reporting to alert if wastes are not being handled properly. An appropriate tracking form can be obtained from the office of the City Clerk-Treasurer. (Ord. 1993-09, 9-20-1993)

4-1 B-9: APPROPRIATE PROCEDURES REGARDING MEDICAL WASTE:

A. Management Plan: Every person who generates, transports, stores, treats, or disposes of infectious waste must prepare and maintain on file, a management plan for the waste that identifies the type of waste the person generates or handles, the segregation, packaging, labeling, collection, storage, and transportation procedures to be implemented, the treatment or disposal methods that will be used, the transporter and disposal facility that will be used,

and the person responsible for the management of the infectious waste.
B. Disposal Procedures: All material which has been rendered noninfectious may be handled as noninfectious waste, provided it is not an otherwise regulated hazardous, special, or radioactive waste and is not subject to the requirements of this Article. The following procedures are applicable to any producer of infectious medical waste, without regard to the quantity:
1. Containment shall be in a manner and location which affords protection from animal intrusion, does not provide a breeding place or a food source for insects and rodents, and minimizes exposure to the public;
2. Infectious waste shall be segregated by separate containment from other waste at the point of origin;
3. Except for sharps, shall be contained in plastic bags inside rigid containers. The bags shall be securely tied to prevent leakage or expulsion of solid or liquid wastes during storage, handling or transport;
4. Sharps shall be contained for storage, transportation, treatment and disposal in leakproof, rigid, puncture-resistant containers which are taped closed or tightly lidded to preclude loss of contents;
5. All bags used for containment purposes shall be red or orange and clearly identified as specified in 29 CFR 1910.145(f)(4). Rigid containers shall be labeled "biomedical waste", or otherwise conspicuously labeled as holding infectious waste, or placed in disposable bags used for other infectious waste;
6. If other waste is placed in the same container as regulated infectious waste, then the generator must package, label and mark the container and its entire contents as infectious waste;

7. Infectious waste containers may be reused for infectious or noninfectious waste if they are thoroughly washed and decontaminated each time they are emptied and the surfaces of the containers have been completely protected from contamination by disposable, unpunctured or undamaged liners, bags, or other devices that are removed with the infectious waste, and the surfaces of the containers have not been damaged or punctured;
8. Storage and containment areas must protect infectious waste from the elements, be ventilated to the outdoors, be only accessible to authorized persons, and be marked with prominent warning signs on, or adjacent to, the exterior doors or gates. The warning signs must be easily read during daylight from a distance of twenty five feet (25'); and
9. Compactors, grinders or similar devices shall not be used to reduce the volume of infectious waste before the waste has been rendered noninfectious. (Ord. 1993-09, 9-20-1993)

4-1B-10: NO FILING FEE REQUIRED: There shall be no filing fee for the filing of such declarations mentioned under Section 4-1 B-2 of this Article. (Ord. 1993-09, 9-20-1993)

4-1B-11: INSPECTIONS REQUIRED: Inspection of each site on which such materials are stored or disposed of shall be made at least annually by the responsible official or his designee. The City Council, by resolution, may adopt regulations establishing classification of materials, by the nature of the potential for contamination of ground water or any other significant factor which would increase the frequency of inspection according to the characteristics detailed in the regulations. (Ord. 1993-09, 9-20-1993)

4-1B-12: STATEMENT OF COMPLIANCE REQUIRED: It is the responsibility of all facilities subject to this Article to file a certification of compliance with this Article on or before March 15 for each calendar year, or within thirty (30) days of the commencement of activities bringing the facility under this Article. Such certification shall be on a form acceptable to the responsible official, and such forms shall be made available as in Section 4-1B-8

of this Article. There shall further be no charge for the filing of this certification, which shall be filed with the responsible official. (Ord. 1993-09, 9-20-1993)
City of Sunland Park
4-1B-13 4-1B-14
4-1B-13: NFPA 704 STANDARDS:
A. Adoption: The standards of the National Fire Protection Association (NFPA) Rule 704 are specifically adopted and incorporated herein by reference. Amendments, revisions, or other updates of this Rule may be adopted by resolution by the City Council.
B. Enforcement: The standards herein adopted, and such amendments, updates, or revisions thereof as may be adopted by resolution of the City Council, shall be enforced by the "responsible official" as that term is defined in Section 4-1B-3 of this Article, definition of "hazardous material/chemical".
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C. Applicability: The standards shall be applicable to all facilities which commence storage, manufacture or use of hazardous materials after November 28, 1989, which must comply with the standards adopted herein within ninety (90) days of the effective date hereof. (Ord. 1993-09, 9-20-1993)
4-1 B-14: PENALTIES:
A. False Statements On Declaration: Making of material false statements, representations or omissions on the declaration is a violation of this Article and is punishable by a penalty as provided in Section 1-4-1 of this Code, per misstatement for violation of this Article.
B. Violations Pertaining To NFPA Rule 704: Violations of this Article as it pertains to NFPA Rule 704 standards, or to any violation not covered by subsection A of this Section, shall be punishable by a penalty as provided in Section 1-4-1 of this Code. Each occurrence or each day of a continuing violation, shall be a separate violation. For disposal of any hazardous material/chemical/medical waste in any manner other than that provided for in the Hazardous Waste Act or this Article, the fine shall be as provided in Section 1-4-1 of this Code for each day of illegal disposal. Each day of illegal disposal shall be a separate violation of the Article. (Ord. 1993-09, 9-20-1993; amd. 2000 Code)
City of Sunland Park

CHAPTER 2

SOLID WASTE

SECTION:

4-2-1: Short Title
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4-2-5: Penalty
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4-2-14: Removal to Designated Place
4-2-15: Fees
4-2-16: Franchise Fees
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4-2-1: **SHORT TITLE:** This Chapter may be cited as the "Solid Waste Ordinance of the City of Sunland Park, New Mexico." (Ord. 2017-3, 9-19-2017)

4-2-2: **AUTHORITY AND PURPOSE:**

A. Authority: This Chapter is adopted pursuant to the enabling provisions of NMSA §§ 3-48-1 et seq. and § 3-17-1, as amended.

B. Purpose: The purpose of this Chapter is to establish regulation for solid waste collection, transfer, transport, and disposal for all the residential and commercial properties within the municipal boundaries of the City of Sunland Park, New Mexico. (Ord. 2017-3, 9-19-2017)

4-2-3: **STATE LAW REFERENCES:** Collection and Disposal of Refuse (NMSA §§ 3-48-1 et seq.); Solid Waste Act (NMSA §§ 74-9-1 et. seq.); Recycling and Illegal Dumping Act (NMSA §§ 74-13-1 et. seq.) (Ord. 2017-3, 9-19-2017)

4-2-4: **DEFINITIONS:** The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

APPLIANCES:	Large household appliances such as refrigerators, stoves, washing machines, air conditioners, swamp coolers, and the like over one and one half (1.5) cubic feet, that are received as waste by the City.
ASHES:	The residue from the burning of wood, coal, coke, or other combustible materials.
BACKYARD COMPOSTING:	Composting household solid waste in a confined space within personal property boundaries.
BURNING:	Any form of incineration of solid waste in the open air except as otherwise provided by state law.
COLLECTION:	The systematic and regular removal of solid waste from property and its transport to a designated solid waste facility for disposal or for transfer and transport to a solid waste facility for final disposal.
COMPOST:	Organic matter produced from solid waste which has undergone a controlled process of decomposition and pathogen reduction, and has been stabilized to a degree which is potentially beneficial to plant growth and which is used as a soil amendment, growing medium amendment or other similar uses.
COMPOSTING:	The process by which biological decomposition of organic solid waste occurs under controlled conditions. The process stabilizes the organic fraction into a material, which can be easily and safely stored, handled and used in an environmentally acceptable manner.
CONSTRUCTION AND DEMOLITION DEBRIS:	Materials generally considered not to be water soluble and which are nonhazardous in nature including, but not limited to, steel, glass, brick, concrete, asphalt roofing materials, pipe, gypsum wallboard and lumber from the construction or destruction of a structure project.

A. The term "construction and demolition debris" includes rocks, soil, tree remains, trees and other vegetative matter that normally results from land clearing.

B. The term "construction and demolition debris" does not include asbestos or liquids including, but not limited to, waste paints, solvents, sealers, adhesives or potentially hazardous materials.

CONTAINER: Authorized public or private receptacles designed for the intermediate storage of solid waste until such time as the refuse is collected. The term "container" shall be synonymous with the term "dumpster." The term "container" includes dumpsters provided by the Contractor as well as containers designated for the intermediate storage of recyclable materials.

CUSTOMER: A property owner whose property receives solid waste disposal service from the City Contractor.

DAY: A calendar day unless otherwise described.

DEBRIS: The unwanted or unusable remains of something broken down or destroyed.

DUMPING: A. Disposing of solid waste or any other discarded material on property within the City which is private including, but not limited to, privately owned or controlled dumpsters, residential refuse containers, parking lots and vacant lots;

B. Disposing of solid waste or discarding any other items on a public place or on public property or facility, which shall include, but is not limited to, the entire width between the boundary lines of every way publicly maintained for the purpose of vehicular travel;

C. Allowing refuse to collect or accumulate on any privately owned lot or other premises within the City.

DUMPSTER: A large solid waste receptacle having a capacity greater than ninety-five (95) gallons, capable of being lifted and dumped by a Contractor-operated automated system.

FACILITY: Real estate or buildings used for a particular function.

GARBAGE: Unwanted or unusable waste products or unused materials to include, but not limited to, food, offal, ashes, waste paper, trash, rubbish, and waste or unwholesome materials generated during the consumption of resources.

GOVERNING BODY: The City Council of the City of Sunland Park, New Mexico.

GREEN WASTE: Vegetative or green organic matter resulting from landscaping, land maintenance and land clearing operations.

A. The term "green waste" includes yard waste.

B. The term "green waste" does not include dirt, rocks, asphalt, cactus or concrete chips.

HAZARDOUS WASTE: Waste which because of its concentration or physical, chemical or infectious characteristics, may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

HOT WASTE: Any waste which is on fire, smoldering or in excess of one hundred eighty (180) degrees Fahrenheit.

INFECTIOUS WASTE: Waste containing pathogens or biologically active material which because of its type, concentration or quantity, is capable of transmitting disease to persons exposed to the waste.

MULTIFAMILY RESIDENTIAL: Residential apartment or condominium dwelling units, consisting of four (4) or more separate units.

NONRESIDENTIAL RECYCLABLES:	Recyclables generated by stores, offices, restaurants, hotels or motels, warehouses, and other manufacturing and nonmanufacturing activities.
NONRESIDENTIAL SOLID WASTE:	A. The term "nonresidential solid waste" means all types of solid waste generated by, but not limited to, stores, offices, restaurants, hotels, motels, warehouses, and other manufacturing and nonmanufacturing activities. B. The term "nonresidential waste" does not include household and hazardous solid wastes.
ORDINANCE:	Ordinance No. 2017-3.
PERSON:	Any individual, partnership, limited partnership, firm, company, corporation, association, joint-stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents or assigns. The term "person" includes all federal, state or local governmental entities.
PROCESSING:	A. The term "processing" means techniques to change the physical, chemical or biological character or components of solid waste. B. The term "processing" does not include composting.
PUTRESCIBLE:	Organic material subject to decomposition by microorganisms.
RECYCLABLE MATERIAL:	Items, which can be reused, or reprocessed for reuse. Such items may include, but are not limited to, corrugated cardboard, paper, aluminum, steel, metals, glass, wood, plastic, and cloth.
RECYCLING:	Any process by which recyclable materials are collected, separated, processed and reused or returned to use in the form of raw materials or products.
REFUSE:	See “Solid Waste”.

REFUSE RATE AND FEE SCHEDULE: The listing of fees and charges for solid waste collection, transfer, transport and disposal services provided by the City's Contractor and which is adopted and incorporated by reference as if fully set forth in this Chapter.

RESIDENTIAL SOLID WASTE: Any solid waste or garbage derived from households, including single and multiple residents, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day use recreation areas.

RESIDENTIAL UNIT: A dwelling unit.

SCAVENGING: The removal of any solid waste or recyclables from a transfer facility or from private or public containers in a manner not authorized by the City.

SERVICE AREA: That area within the city limits and any additional area beyond those limits within which the City Council authorizes the collection of solid waste.

SOLID WASTE: A. The term "solid waste" means garbage, refuse, litter, yard waste, construction and demolition debris and other discarded solid materials, including those from industrial, commercial and agricultural operations and from community activities.

B. The term "solid waste" does not include solids or dissolved materials in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial wastewater effluents, dissolved materials in irrigation return flow nor hazardous, infectious, radioactive materials which the City is prohibited by law from accepting.

C. Solid waste facility means any real estate or structure or group of structures designated to facilitate the collection, processing, treatment, handling, transfer, transport and disposal of municipal solid waste.

D. Transfer facility means a facility in which various types of solid waste are received and then placed in other vehicles for transport to another solid waste facility for disposal.

TRASH: See “Solid waste”.

USER: See “Customer”.

VERMIN: All noxious, objectionable, or disgusting animals; especially those of a small size that are difficult to control, e.g. rats, mice, flies, and cockroaches. (Ord. 2017-3, 9-19-2017)

4-2-5: **PENALTY:** Any person who shall violate any provision of this Chapter shall be subject to an administrative fee of fifty dollars ($50.00). Each day of a violation shall be considered a separate offense. All fees shall be payable to the City Clerk. (Ord. 2017-3, 9-19-2017)

4-2-6: **AUTHORITY TO PROVIDE SERVICES:**

A. The City Council may, by resolution, and as it deems in the best interests of the health and safety of the City's inhabitants, hire a contractor ("the Contractor”) which shall have the exclusive right within the service area to collect, remove, or dispose of solid waste, with the exception of nonresidential recyclables, commercially compacted items, dead animals, construction and demolition debris, hazardous wastes and other such materials which the City is prohibited by law from collecting or disposing. No person or organization may sell within the service area any services for the systematic and routine collection, transportation or disposal of garbage, trash or refuse except for residential recyclables, commercially compacted items, dead animals, construction and demolition debris, hazardous wastes and other such materials which the City is prohibited by law from collecting or disposing.

B. The City and its duly authorized agents shall have the exclusive right to collect or gather residential curbside recyclables, except that the City may hire a contractor for such services.

C. The City reserves the right at any time to refuse to collect or receive waste, if, in the City Manager's judgment, such collection is deemed to be harmful, hazardous or in violation of City and state regulations governing type of waste, weight or waste constituents. The City shall inform the person responsible for such waste and shall require compliance with this Chapter. (Ord. 2017-3, 9-19-2017)

4-2-7: **ADDITIONAL PROHIBITED PRACTICES:** The following actions with regard to solid waste are hereby prohibited and, notwithstanding Section 4-2-5 herein, each person who commits these violations shall be subject to an administrative fee of one-hundred dollars ($100.00); each day of a violation shall be considered a separate offense:

A. Burning;

B. Dumping;

C. Placing solid waste in any container or areas other than those specifically designated or approved by the City for collection or disposal;

D. Scavenging;

E. Depositing of hot waste in excess of one hundred eighty (180) degrees Fahrenheit into any container or enclosure designated for refuse collection;

F. Presenting to the City for disposal infectious waste, hazardous waste, flammable or explosive refuse, radioactive waste or other contaminated materials which by law or regulation must be properly disposed by a specially licensed or equipped person or requires a solid waste facility specifically authorized for this purpose;

G. Placing furniture, mattresses, large tree limbs, tires, engine parts, appliances, or other large items at the curbside or in waste containers for routine weekly collection;

H. Depositing, dumping or burying dead animals, or any substance condemned by the state or City, or any other deleterious or offensive substances, except as provided for in this chapter. Dead rodents, fish, and birds shall be double-bagged and sealed;

I. Willfully destroying or damaging Contractor-provided garbage receptacles; and

J. Willfully parking or placing obstacles so as to interfere with or prevent the automated collection of garbage receptacles. (Ord. 2017-3, 9-19-2017)

4-2-8: **ADMINISTRATION OF SERVICES:** The Contractor hired to provide services, shall attend to all requests for new or additional collection service, cancellation or reduction of service. (Ord. 2017-3, 9-19-2017)

4-2-9: **STORAGE AND TREATMENT OF GARBAGE:** No person owning or occupying any building, lot or premises in the City shall suffer, allow or permit to remain upon the lot or premises any garbage or trash; provided, however,

that this provision shall not be construed as preventing backyard composting, or the deposit and spreading of rotten manure upon any lawn or garden provided the same shall be reasonably free from offensive odors and is not so deposited or spread as to constitute a nuisance. Except as provided for in this Chapter, garbage or trash, whether in containers or not, shall not be placed in the City's rights-of-way, in any alley, upon any street, or curbside during intervals between regular collections. Failure to observe this prohibition shall constitute a public nuisance and be subject to all remedies at law and in equity. (Ord. 2017-3, 9-19-2017)

4-2-10: **RESIDENTIAL COLLECTION:**

A. All single-family dwellings and multiple-family dwellings of four (4) or fewer dwellings on a single site shall be required to deposit garbage containers supplied by the Contractor. Garbage and refuse not enclosed in containers supplied by the Contractor will not be collected, unless otherwise provided for in this Chapter. Such uncollected garbage and refuse shall not be permitted by the owner or occupant of the premises to remain in the City's rights-of-way, in any alley, upon any street, or curbside for more than twelve (12) hours after refusal of the Contractor to collect such garbage and refuse.

B. Customers shall keep all refuse and garbage within their private premises until the time when receptacles are placed for collection. Residential garbage shall be placed out for collection no earlier than 5:00 p.m. on the day prior to the regularly scheduled day for collection. No resident may leave a receptacle after collection for more than twenty-four (24) hours after that collection in the right-of-way.

C. Residential garbage shall be placed as close to the front curb as possible but shall not be placed on the sidewalk and shall be clear of pedestrian and vehicular traffic. Where a curb does not exist, the refuse receptacle shall be placed on the property side, outside the traffic boundaries of the road. The garbage receptacle shall be clearly visible and accessible to collection crews and free from any obstructions including, but not limited to, trees, power poles, mailboxes, shrubbery, walls, fences and vehicles. Neither the Contractor nor its agents will enter upon private land in order to make collections and pickups. The garbage receptacle shall be placed forward facing the street or alley, with the hingetop being located on the side immediately adjacent to the owner's property.

D. Garbage and refuse shall not be stacked so that it rises above the rim of the receptacle, nor shall garbage and refuse be stacked on top of the closed container. The customer shall cleanup refuse spills around the receptacle within twenty-four (24) hours of the spill.

E. All garbage receptacles shall be kept in a clean and sanitary condition by the owner or person using the same, and all receptacles shall be tightly covered at all times except when garbage is being deposited therein or removed

thereof, and shall at all times be proofed against access by vermin to the contents thereof. The garbage shall be bagged prior to depositing it into the receptacle. (Ord. 2017-3, 9-19-2017)

4-2-11: **COMMERCIAL COLLECTION:**

A. Apartment houses, sites where there are more than four (4) residential units on a single parcel, business houses or other nonresidential premises, shall be required to use dumpsters supplied by the Contractor.

B. The Contractor is authorized to designate the location of all containers for commercial collection, taking into consideration the convenience to collection crews and to customers, traffic hazards and other hazardous conditions.

C. All garbage receptacles shall be kept in a clean and sanitary condition by the owner or person using the same, and all garbage receptacles shall be tightly covered at all times except when garbage is being deposited therein or removed thereof, and shall at all times be proofed against access by vermin to the contents thereof. The garbage shall be bagged prior to depositing it into the receptacle or dumpster. (Ord. 2017-3, 9-19-2017)

4-2-12: **SPECIAL AND BULK COLLECTIONS:** At intervals to be determined by the City Manager, the Contractor shall provide for special and bulk collections of refuse, garbage, lawn and tree clippings, appliances, and other items not collected during normally scheduled pickup service, but not construction debris. Items for such collection shall be placed at curbside no earlier than twenty-four (24) hours prior to the scheduled pickup, unless otherwise coordinated with the City Manager, and in no event will the Contractor's personnel enter upon private lands without the customer's permission to collect or pickup special or bulk items. The items for collection shall be placed so as not to interfere with traffic or pedestrians, and shall be clearly visible to the collector. (Ord. 2017-3, 9-19-2017)

4-2-13: **FREQUENCY OF COLLECTION; SPECIAL PICKUPS:**

A. Residential and apartment collections from containers shall be at least once weekly.

B. Commercial collections shall be at least once weekly, but not more often than five (5) days a week.

C. Other collections may be made as deemed necessary by the City Manager or the Contractor. In the case of special, unscheduled pickups, the charge, if any, to the requesting party shall be determined by the appropriate commercial fee schedule. (Ord. 2017-3, 9-19-2017)

4-2-14: **REMOVAL TO DESIGNATED PLACE:**

A. All garbage removed from any premises within the City, shall be taken to a place designated by resolution of the City Council.

B. For the preservation of the public health and general welfare, it is hereby declared to be unlawful for any person, including public employees, to gather, remove, dump or dispose of garbage in any other place. All scavenging in and removal of all classes of garbage, trash, refuse and debris from containers provided and maintained by the Contractor is prohibited. (Ord. 2017-3, 9-19-2017)

4-2-15: **FEES:**

A. The rates that shall apply to residential and commercial garbage collection shall be set in the contract for services between the City and the Contractor.

B. The City shall have authority to impose a franchise fee upon the Contractor in return for the Contractor's exclusive right to collect municipal solid waste. (Ord. 2017-3, 9-19-2017)

4-2-16: **LIEN; FORECLOSURE:** The failure to pay for garbage collection services shall result in a lien upon the property, and the Contractor shall be authorized to take whatever steps necessary to perfect and foreclose upon said lien. (Ord. 2017-3, 9-19-2017)

CHAPTER 3
LITTERING; HANDBILLS; BUILDING DEBRIS
SECTION:
4-3-1: Littering
4-3-2: Dangerous Building Or Debris Removal
4-3-3: Penalty
4-3-1: LITTERING:
A. Streets: No person shall throw or deposit litter in or on any street, sidewalk or other public place within the City except in public receptacles, in authorized private receptacles or in the City sanitary landfill.
B. Placing In Receptacles: Persons placing litter in public receptacles or in authorized private receptacles shall do so in such manner as to prevent it from being carried or deposited by the elements on any street, sidewalk or other public or private place.
C. Sweeping In Gutter; Cleaning Sidewalks: No person shall sweep into or deposit in any gutter, street or other public or private place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk, planter strips and driveways abutting their premises clean and free of litter.
D. Throwing From Vehicles: No person while a driver or passenger in a vehicle shall throw or deposit litter on any private property, any street or other public place within the City.
E. Construction, Loading Of Vehicle: No person shall drive or move any truck or other vehicle within the City unless the vehicle is so constructed or loaded as to prevent its load or contents from being blown or deposited on any street, alley or other private or public place.

F. Parks: No person shall throw or deposit litter in any park within the City except in public receptacles and in such manner that the litter will be prevented from being carried or deposited by the elements on any part of the park or on any street or other private or public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere.
G. Fountains; Rivers: No person shall throw or deposit litter in any fountain, pond, river, stream or any other body of water in a park or elsewhere in the City.
H. Handbills':
1. Handbills On Sidewalks; Distribution: No person shall throw, deposit or affix any commercial or noncommercial handbill in or on any sidewalk, street, or other public place within the City. Nor shall any person hand out, distribute or sell any commercial handbill in any public place.
2. Depositing Handbills In Vehicles: No person shall throw or deposit any commercial or noncommercial handbill in or on any vehicle.
3. Distribution; Residential Premises:
a. No person shall throw, deposit or distribute any commercial or noncommercial handbill in or on residential premises which are inhabited except as provided herein. No handbill shall be placed on posted premises. In the case of inhabited premises which are not posted, the distributor, unless requested by anyone on the premises not to do so, shall have the authority to place or deposit any noncommercial handbill in or on the inhabited premises if the handbill is so placed or deposited as to secure or prevent it from being blown or drifted about the premises or sidewalks, streets or other public places; providing, further, that mailboxes may not be used when so

prohibited by Federal postal law or regulations. No handbills shall be distributed or deposited on uninhabited property.
b. The provisions of this subsection shall not apply to the distribution of mail by the United States or to newspapers.
1. See also Section 5-1 C-4 of this Code.

I. Littering From Aircraft: No person in an aircraft shall throw out, drop or deposit within the City any litter, handbill or any other object.
J. Posting Of Notices: No person shall post or affix any notice, poster or other object to any lamppost, public utility pole or shade tree, or on any public structure or building except as may be authorized or required by law.
K. Private Property; Receptacles: No person shall throw or deposit litter on any occupied or vacant private property within the City, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles in such a manner that litter will be prevented from being carried or deposited by the elements on any street, sidewalk or other public place or on any private property.
L. Premises Kept Free From Litter And Refuse: The owner or person in control of any private property shall maintain the premises free of litter and refuse; provided, that this subsection shall not prohibit the storage of litter and refuse in authorized private receptacles.
M. Disposition On Vacant Private Property:
1. The City Clerk-Treasurer is authorized to notify the owner of any open or vacant private property within the City, or the agent of the owner, to properly dispose of litter located on the owner's property. Such notice shall be by certified mail, addressed to the owner or agent at his last known address or by personal delivery.
2. On the failure, neglect or refusal of any owner or agent so notified to properly dispose of the litter within five (5) days after receipt of written notice or within ten (10) days after the date of such notice in the event the same is returned to the post office, the City Attorney is authorized to cause a complaint to be filed in the Municipal Court for violation of this provision.
N. Declaration Of Nuisance; Penalties: The littering of private property, whether it be occupied, inhabited or vacant, by any means whatsoever and the distribution of handbills, unless done pursuant to an exception or exceptions provided for in the ordinances of the City are nuisances. Nuisances defined herein may be abated by any method authorized by law or ordinance and the choice of a particular method shall not be deemed an election of remedies barring subsequent choice of another remedy or prohibiting pursuing

different or inconsistent remedies simultaneously. (Ord. 1984-11, 8-7-1984)
4-3-2: DANGEROUS BUILDING OR DEBRIS REMOVAL:
A. Removal Of Condemned Buildings:
1. City Authority To Require Removal: Whenever any building or structure is ruined, damaged and dilapidated, or any premises is covered with ruins, rubbish, wreckage or debris, the Governing Body may, by resolution, find that the ruined, damaged and dilapidated building, structure or premises is a menace to the public comfort, health, peace or safety and require the removal from the City of the building, structure, ruins, rubbish, wreckage or debris.
2. Notice To Owner; Posting On Premises: A copy of the resolution shall be served on the owner, occupant or agent in charge of the building or premises. If the owner, as shown by the real estate records of the County Clerk, occupant or agent in charge of the building, structure or premises cannot be served within the City, a copy of the resolution shall be posted on the building, structure or premises and a copy of the resolution shall be published one time in the regular manner as are

proposed ordinances and one time in a newspaper of general circulation in the City.
3. Time Limit For Removal: Within ten (10) days of the receipt of a copy of the resolution or of the posting and publishing of a copy of the resolution, the owner, occupant or agent in charge of the building, structure or premises shall commence moving the building, structure, ruin, rubbish, wreckage or debris, or file a written objection with the City Clerk-Treasurer asking for a hearing before the Governing Body of the City.
4. Action On Written Objection; Hearing: If a written objection is filed as required, the Governing Body shall:
a. Fix a date for a hearing on its resolution and objection;
b. Consider all evidence for and against the removal resolution at the meeting; and
c. Determine if its resolution should be enforced or rescinded.

5. Appeal To District Court: Any person aggrieved by the determination of the Governing Body may appeal to the District Court as provided in New Mexico Statutes Annotated section 3-18-5.
6. Failure To Remove; City Abatement; Costs: If the owner, occupant or agent in charge of the building, structure or premises fails to commence removing the building, structure, ruins, rubbish, wreckage or debris:
a. Within ten (10) days of being served a copy of the resolution or of the posting and publishing of the resolution;
b. Within five (5) days of the determination of the Governing Body that the resolution shall be enforced; or (Ord. 1984-11, 8-7-1984)
c. After the District Court enters judgment sustaining the determination of the Governing Body, the City may remove the building, structure, ruins, rubbish, wreckage or debris at the cost and expense of the owner. The reasonable cost of removal shall be a lien in favor of the City as provided in New Mexico Statutes Annotated section 3-18-5. The lien shall be foreclosed in the manner provided in New Mexico Statutes Annotated sections 3-36-1 through 3-36-7. (Ord. 1984-11, 8-7-1984; amd. 2000 Code)
7. Payment Of Removal Costs; Title To Salvageable Materials: The City may pay for the costs of removal of any condemned building, structure, wreckage, rubbish or debris by granting the person removing such materials, the legal title to all salvageable materials in lieu of all other compensation.
8. Condition Of Premises Following Removal: Any person removing any condemned building, structure, wreckage, rubbish or debris shall leave the premises from which the material has been removed in a clean, level and a safe condition suitable for further occupancy or construction and with all excavations filled.
B. Clearing Premises After Demolition Of Building: When any building has been demolished, the person demolishing it shall promptly clear the premises and all adjacent streets, sidewalks and alleys of all debris, refuse and loose material resulting from the demolition.
C. Repair Of Building: Any existing building within the City, which may be damaged by fire, decay or otherwise, to an extent in which repair will exceed one-half (1/2) of the building's value at the time of this

damage, exclusive of the foundation, shall not be repaired or rebuilt 1 but shall forthwith be removed by the owner or owner's representative within sixty (60) days after notification in writing by certified mail from the City Building Inspector to the owner or owner's representative.
D. Building Material In Public Right Of Way Or Gutters:
1. No person shall place any stone, brick, lumber, debris or other like material in the public right of way except for the purpose of building. Such material shall not be allowed to remain in the public right of way after the completion of the building nor

shall it be allowed to occupy or obstruct more than one-half (1/2) of any public right of way. Immediately on the completion of every such building, the dirt and debris shall be removed by the owner or contractor.

2. The gutter of any street shall not at any time be obstructed by building material which prevents the free passage of water along the gutter. (Ord. 1984-11, 8-7-1984)

4-3-3: PENALTY: Any violation of this Chapter is punishable as provided in Section 1-4-1 of this Code. Each day that any violation occurs or continues constitutes a separate offense punishable separately. (Ord. 1984-11, 8-7-1984; amd. 2000 Code)

CHAPTER 4

NOISE CONTROL

SECTION:

4-4- 1: Short Title
4-4- 2: Intent
4-4- 3: Definitions
4-4- 4: Noises Prohibited
4-4- 5: Zone District Noise Levels; Maximum; Correction Sound Level Measurement
4-4- 6: Exemptions
4-4- 7: Permit Requirements
4-4- 8: Motor Vehicle Noise
4-4- 9: Penalty

4-4-1: SHORT TITLE: This Chapter may be cited as the NOISE ORDINANCE. (Ord. 1997-03A, 10-20-1997)

4-4-2: INTENT: It is the intent of the Governing Body of the City to ensure its citizens an environment free from such excessive sound as may jeopardize their health, welfare and safety, or degrade the quality of life. (Ord. 1997-03A, 10-20-1997)

4-4-3: DEFINITIONS: All terminology used in this Chapter and not defined shall be in conformance with the American National Standards Institute Publication, Acoustical Terminology, SI.1-1960, revised 1971, or other American National Standards Institute Publication. As used in this Chapter:

A-WEIGHTED SOUND PRESSURE LEVEL: The sound pressure level as measured with a sound level meter using the "A-weighting" network. The standard notation is db(A) or dBA.

AMBIENT SOUND PRESSURE LEVEL: The sound pressure level of the all encompassing noise associated with a given environment, usually a composite of sounds from many sources. It is also the "A-weighted" sound pressure level exceeded ninety percent (90%) of the time based on a measurement period which shall not be less than ten (10) minutes.

CONTINUOUS SOUND: Any sound which exists, essentially without interruption, for a period of ten (10) minutes or more.

DECIBEL: A logarithmic and dimensionless unit of measure often used in describing the amplitude of sound. Decibel is denoted as dB.

DEVICE: Any mechanism which is intended to produce, or which actually produces, noise when operated or handled.

EMERGENCY WORK: Work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from an imminent exposure to danger.

EQUIVALENT SOUND LEVEL (Leq):
MOTOR VEHICLE:
MUFFLER:
A level of steady sound which, in a stated time period and stated location, has the same A-weighted sound energy as the time varying sound. Leq shall be calculated using approved Federal Highway Administration noise projection models.
Any vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from batteries or from overhead trolley wire, but not operated on rails.
An apparatus consisting of a series of chambers or baffle plates designed for the purpose or transmitting gases while reducing sound emanating from such apparatus.
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NOISE DISTURBANCE: Any sound which annoys or disturbs reasonable
NOISE SENSITIVE persons with normal sensitivities, or which
ZONE: injures or endangers the public health, welfare
or safety.
Any land use, including, but not limited to,
dwellings, residentially zoned properties,
schools, daycares, health care facilities,
churches, recreational facilities, libraries, or
similar land use that may have a diminished use
when subjected to excessive noise.
PERCENTILE SOUND Includes:
PRESSURE LEVEL:
A. Tenth percentile noise level which is the A-weighted sound pressure level that is exceeded ten percent (10%) of the time in any measurement period, such as the level that is exceeded for a total of over one minute in a ten (10) minute period, and is denoted L10; and
B. Ninetieth percentile noise level which is the A-weighted sound pressure level that is exceeded ninety percent (90%) of the time in any measurement period, such as the level that is exceeded for a total of nine (9) minutes in a ten (10) minute period, and is denoted L90.
PERSON:
PLAINLY AUDIBLE NOISE:
PROPERTY BOUNDARY:
Any human being, firm, association, organization, partnership, business, trust, corporation, company, contractor, supplier, installer, user, owner or operator, including any
municipal corporation or its officers or
employees.
Any noise for which the information content of that noise is unambiguously transferred to the listener, such as, but not limited to, understanding or spoken speech, comprehension of whether a voice is raised or normal, or comprehension of musical rhythms.
An imaginary line exterior to any enclosed structure, at the ground surface, and its vertical
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PUBLIC RIGHT OF extension, which separates the real property
WAY: owned by one person from that owned by
SOUND: another person.
SOUND LEVEL Any street, avenue, boulevard, highway or alley
METER: or similar place which is owned or controlled by
a public governmental entity.

A temporal and spatial oscillation in pressure, or other physical quantity, in a medium with interval forces that causes compression and rarefaction of that medium, and which propagates at finite speed to distant points.

An instrument, including a microphone, amplifier, output meter and visual display and frequency weighting networks, that is sensitive to pressure fluctuations. The instrument reads sound pressure level when properly calibrated and is of Type II or better, as specified in American National Standards Institute Publication, Specifications for Sound Level Meters, ASI IS 4-1971.

SOUND PRESSURE: The instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space due to sound.

SOUND PRESSURE LEVEL: Twenty (20) times the logarithm to the base ten (10) of the ratio of the root mean square to the reference pressure, which shall be twenty (20) micropascals, denoted pressure level (LP) or sound pressure level (SLP).

STATIONARY NOISE SOURCE: Any device, fixed or movable, which is located or used on property other than a public right of way.

ZONE DISTRICT: Those districts established by the City Zoning Ordinance (Title 10 of this Code). (Ord. 1997-03A, 10-20-1997)

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4-4-4: NOISES PROHIBITED:

A. General Prohibition: In addition to the specific prohibitions outlined in subsection B of this Section and Sections 4-4-5 and 4-4-9 of this Chapter, it is unlawful for any person to make, continue, or cause to be made or continued any noise disturbance within the City limits.

B. Violations Enumerated: The following are in violation of this Chapter:

1. Horn Or Signalling Device: The sounding of any horn or signaling device on any truck, automobile, motorcycle, emergency vehicle or other vehicle on any street or public place within the City, except as a danger warning signal as provided in the State Motor Vehicle Code, or the sounding of any such signaling device for an unnecessary period of time.

2. Radio, Television: Using, operating or permitting the use or operation of any radio receiving set, musical instrument, television, phonograph, drum or other machine or device for the production or reproduction of sound, except as provided for in subsection B3 of this Section:

a. Which violates the zone district noise levels set out in Section 4-4-5 of this Chapter, or causes a noise disturbance;

b. Between the hours of nine o'clock (9:00) P.M. and seven o'clock (7:00) A.M. the following day in such a manner as to be plainly audible at the property boundary of the source: or 1) is plainly audible at fifty feet (50') or fifteen meters (15 m) from such device when operated within a vehicle parked on a public right of way; or 2) is plainly audible through partitions common to two (2) occupants within a building or structure.

3. Loudspeaker Or Sound Amplifier: Using or operating a loudspeaker or sound amplifying equipment in a fixed or movable position or mounted upon any sound vehicle in or upon any street, alley, sidewalk, park, place, public or private property for the purpose of commercial advertising, giving instructions, directions, talks, addresses, lectures, or transmitting music to any persons or assemblages of

persons in a manner which violates Section 4-4-5 of this Chapter or causes a noise disturbance, unless a permit as provided by Section 4-4-8 of this Chapter has been obtained.
4. Construction Equipment: Operating, or causing to be used or operated, any equipment used in construction, repair, alteration or

demolition work on buildings, structures, streets, alleys or appurtenances thereto:
a. In residential or commercial zone areas between the hours of nine o'clock (9:00) P.M. and seven o'clock (7:00) A.M. the following day; and
b. In any other areas of the City where such operation exceeds the sound level limits for an industrial land use as set forth in Section 4-4-5 of this Chapter.
5. Power Equipment: Operating or permitting to be operated any power equipment rated five (5) horsepower or less used for home or building repair or grounds maintenance, including, but not limited to, power saws, sanders, lawn mowers, garden equipment or snow removal equipment, in residential or commercial zoned areas:
a. Outdoors between the hours of nine o'clock (9:00) P.M. and seven o'clock (7:00) A.M. the following day; and
b. Which emits a sound pressure level in excess of eighty (80) dBA measured at a distance of twenty five feet (25') or seven and five-tenths meters (7.5 m).
6. Chain Saws, Pavement Breakers: Operating or permitting to be operated any power equipment, except construction equipment used for construction activities, rated more than five (5) horsepower, including, but not limited to, chain saws, pavement breakers, log chippers and powered hand tools:
a. In residential or commercial zoned areas between the hours of nine o'clock (9:00) P.M. and seven o'clock (7:00) A.M. the following day; and
b. In any other areas of the City, if such equipment emits a sound pressure level in excess of eighty eight (88) dBA measured at a distance of twenty five feet (25') or seven and five-tenths meters (7.5 m).
7. Public Entertainment; Warning Sign: Operating or permitting to be operated in any place of public entertainment any loudspeaker or other source of sound which produces, at a point that is normally occupied by a customer, maximum sound pressure levels of one hundred (100) dBA as read with the slow responses on a sound level meter, unless a conspicuous and legible sign at least two hundred

twenty five (225) square inches in area is posted near each public entrance stating: "Warning: Sound Levels May Cause Hearing Impairment". This provision shall not be construed to allow the operation of any loudspeaker or other source of sound in such a manner as to violate Section 4-4-5 of this Chapter.
8. Vehicle In Disrepair: Operating or permitting to be operated or used any truck, automobile, motorcycle or other motor vehicle which, by virtue of disrepair or manner of operation, violates Section 4-4-5 of this Chapter or causes a noise disturbance. (Ord. 1997-03A, 10-20-1997)
9. Refuse Compacting Vehicle: Operating or causing or permitting to be operated any refuse compacting vehicle which creates a sound pressure level in excess of seventy nine (79) dBA at twenty five feet (25') or seven and five-tenths meters (7.5 m) from the vehicle. (Ord. 1997-03A, 10-20-1997; amd. 2000 Code)
10. Operation Of Vehicle: Operating or causing or permitting to be operated any motor vehicle or any auxiliary equipment attached thereto in a manner which violates Section 4-4-5 of this Chapter or causes a noise disturbance for a consecutive period longer than ten (10) minutes during which such vehicle is stationary in a residential zone.
11. Near Schools, Hospitals: Creating noise in excess of the residential standard as defined in Section 4-4-5 of this Chapter within the vicinity of any school, hospital,

institution of learning, court or other designated area where exceptional quiet is necessary, while the same is in use, provided conspicuous signs are displayed in the streets indicating a quiet zone.
12. Electronic Signals; Alarms; Chimes: Sounding, operating or permitting to sound or operate an electronically amplified signal from any burglar alarm, bell, chime or clock, including, but not limited to, bells, chimes or clocks in schools, house of religious worship or governmental buildings, which fail to meet the standards set forth in Section 4-4-5 of this Chapter for more than fifteen (15) minutes in any hour.
13. Recreational Vehicle: Operating a recreational vehicle or snowmobile in a manner which violates Section 4-4-5 of this Chapter or causes a noise disturbance. (Ord. 1997-03A, 10-20-1997)
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4-4-5: ZONE DISTRICT NOISE LEVELS; MAXIMUM; CORREC-
TION:
A. Time Periods And Sound Levels:
1. Specific Limitations: It is a violation of this Section for any person to operate or permit to be operated any stationary source of sound in such a manner as to create a ninetieth percentile sound pressure level (L90) for a measurement period of ten (10) minutes or more unless otherwise provided in this Section, which exceeds the limits set forth for the following receiving zones. The location for measuring exterior sound level shall be at least one foot (1') inside the property line of the affected property and three to six feet (3 to 6') above ground level and at least four feet (4') from walls and other reflective surfaces.
9:00 P.M. 7:00 A.M.
Zone District To 7:00 A.M. To 9:00 P.M.
Residential 50 dBA 55 dBA R-1, R-2, R-3, R-4, R-5,
R-7, RC-5, RC-8, RM,
RAC, AC, PRC, PRRC,
HZ, Mobile Home Park
Commercial 55 dBA 60 dBA C-1, C-2, C-4, SC, BCD
Industrial-Agricultural 70 dBA 75 dBA 1-1,1-2, IP
2. Noise Measured In More Than One District: When a noise source can be identified and its noise measured in more than one land use category, the limits of the more restrictive use shall apply at the boundaries between different zones.
B. Exceeding Sound Level Limits; Measurement Period:
1. It is a violation of this Section for any person to operate, or permit to be operated, any stationary source of sound within any area of the City which creates a tenth percentile sound pressure level (L10) of ten (10) dBA greater than the levels set forth of the receiving zones in subsection A of this Section for any measurement period. Such measurement period shall not be less than ten (10) minutes.
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2. Notwithstanding the provisions of subsection B of this Section, it is a violation of this Section for any person to operate or permit to be operated, any stationary source of sound within any area of the City which creates a tenth percentile sound pressure level (L10) greater than fifteen (15) dBA above the ambient sound pressure level (L90) of any measurement period. Such measurement period shall not be less than ten (10) minutes. (Ord. 1997-03A, 10-20-1997)
4-4-6: SOUND LEVEL MEASUREMENT: Sound level measure-
ments shall be made with a sound level meter using the "A-weighted" scale, in accordance with standards promulgated by the American National Standards Institute or other reasonable standards adopted and tested by the City Clerk-Treasurer or appointed designee. (Ord. 1997-03A, 10-20-1997)
4-4-7: EXEMPTIONS: The following uses and activities shall be
exempt from noise level regulation:

A. Noise of safety signals, warning devices and emergency pressure relief valves;
B. Noise resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency;
C. Noise resulting from emergency work;
D. Noise resulting from lawful fireworks and noisemakers used for a celebration of an official holiday; and
E. Noise resulting from activities of temporary duration permitted by law for which a license or permit has been approved by the City Clerk-Treasurer or appointed designee in accordance with Section 4-4-8 of this Chapter. (Ord. 1997-03A, 10-20-1997)

4-4-8: PERMIT REQUIREMENTS:

A. Application For Permit: Application for a permit for relief from the noise restrictions in this Chapter on the basis of undue hardship may be made to the City Clerk-Treasurer or appointed designee. The application shall be in writing and set forth the conditions as specified in subsections A1, A2 or A3 of this Section entitling the

appellant to the relief requested. Any permit granted by the City Clerk-Treasurer or appointed designee shall contain all conditions upon which the permit has been granted, including, but not limited to, the effective dates, any time of day, location, sound pressure level or equipment limitation. The relief requested may be granted upon good and sufficient showing:
1. That additional time is necessary for the applicant to alter or modify his activity or operation to comply with this Section; or
2. That the activity, operation or noise source will be of temporary duration and cannot be done in a manner that would comply with this Section; and
3. That no reasonable alternative is available to the applicant.
B. Conditions: The City Clerk-Treasurer or appointed designee may prescribe reasonable conditions or requirements deemed necessary to minimize adverse effects upon a community or the surrounding neighborhood.
C. Permit Denial; Appeal: Any person denied a permit by the City Clerk-Treasurer or appointed designee shall have the right to appeal the denial to the Governing Body. The appeal shall not be entertained unless it is in the form of a verified petition, in writing, filed with the City Clerk-Treasurer within five (5) calendar days of the denial, setting forth the condition, as specified in subsections A1, A2, or A3 of this Section entitling the appellant to the relief requested. (Ord. 1997-03A, 10-20-1997)

4-4-9: MOTOR VEHICLE NOISE:

A. Vehicle Categories; Noise Level Limitation: No persons shall drive, move, cause or knowingly permit to be driven or moved, a motor vehicle or combination of vehicles in a manner which exceeds the following noise limits for the category of motor vehicle shown below. Noise shall be measured at a distance of at least twenty five feet (25') or seven and five-tenths meters (7.5 m) from the near side of the nearest lane being monitored and at a height of at least four feet (4') or one and two-tenths meters (1.2 m) above the immediate surrounding surface:

Sound Pressure Level, dBA	Speed Limit 45 MPH Or Less	Speed Limit Over 45 MPH
Motor vehicles with a manufacturer's gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) of 10,000 pounds or more, or any combination of vehicles towed by	90	94

such motor vehicle
Any other motor vehicle or any 77 81 combination of vehicles towed by any motor vehicle
B. Applicability Of Section: This Section applies to the total noise from a vehicle or combination of vehicles and shall not be construed as limiting or precluding the enforcement of any other provisions of this Chapter relating to motor vehicle mufflers for noise control.
C. Exhaust System Requirements: No person shall operate or cause to be operated any motor vehicle unless the exhaust system of such vehicle is:
1. Free from defects which affect sound reduction;
2. Equipped with a muffler or other noise dissipative device;
3. Not equipped with any cut-out, by-pass or similar device; and
4. Not modified in a manner which will amplify or increase the noise emitted by the motor of such vehicle above that emitted by a muffler of the type originally installed on the vehicle. (Ord. 1997-03A, 10-20-1997)
4-4-10: PENALTY: Upon conviction for violation of any provisions of this Chapter, the defendant shall be subject to penalty as provided in Section 1-4-1 of this Code. Each day during which there is a violation may be charged as a separate offense. (Ord. 1997-03A, 10-20-1997; amd. 2000 Code)

CHAPTER 5
FIREWORKS
SECTION:
4-5- 1: 4-5- 2: 4-5- 3: 4-5- 4: 4-5- 5: 4-5- 6: 4-5- 7:
4-5- 8: 4-5- 9: 4-5-10: 4-5-11: 4-5-12: 4-5-13:
Fireworks Defined
Aerial Devices And Ground Audible Devices Prohibited Permit Required
Restrictions And Guidelines
Compliance With State And Local Regulations
Sale To Children Or Intoxicated Persons Prohibited Igniting And Exploding Certain Devices Authorized For
Limited Purposes
Fire Extinguishers
Personnel; Age Limitation
Prohibited Discharge
Gasoline Or Other Flammable Liquids
Civil Liability
Penalty
4-5-1: FIREWORKS DEFINED: "Fireworks" as used in this Chapter means:
A. "Common fireworks" which are any fireworks device suitable for use by the public that complies with the construction, performance, composition and labeling requirements promulgated by the United States Consumer Product Safety Commission in title 16, CFR and that is classified as a Class C explosive by the United States Department of Transportation.
B. "Special fireworks" which are devices primarily intended for commercial displays which are designed to produce visible or audible effects by combustion, deflagration or detonation including salutes containing more than one hundred thirty milligrams (130 mg) (2 grains) of explosive composition, aerial shells containing more than forty grams (40 g) of chemical composition exclusive of lift charge and other exhibition display items that exceed the limits

contained in the Fireworks Licensing and Safety Act (New Mexico Statutes Annotated section 60-2C-1 et seq., herein referred to as the "Act") for common

fireworks.
C. "Aerial device" which is a fireworks device that upon ignition propels itself or an insert a significant distance into the air, but does not include a firework that produces a shower of sparks.
D. "Ground audible device" which is a fireworks device intended to function on the ground that produces an audible effect.
E. "Permissible fireworks" which are common fireworks except stick-type rockets having a tube less than one-fourth inch (1/4") inside diameter. (Ord. 1995-01, 6-6-1995)

4-5-2: AERIAL DEVICES AND GROUND AUDIBLE DEVICES PROHIBITED:

A. Exception To Prohibition: Pursuant to New Mexico Statutes Annotated section 60-2C-7, the possession or use of aerial devices or ground audible devices are prohibited; provided, that public display of such is not prohibited if a written permit is secured from the Governing Body of the City and the devices are purchased from a distributor licensed by the State Fire Marshall and the Bureau of Alcohol, Tobacco and Firearms of the United States Department of Treasury.
B. Seizure Authorized; Procedure For Destruction:
1. Seizure: The Fire Chief, his designated representative or any police officer is authorized to seize any aerial devices or ground audible devices found within the City limits, or within five thousand feet (5,000') thereof in violation of this Section. The Fire Chief, designated representative or any police officer is authorized to seize any fireworks not held in compliance with the Act or this Chapter.
2. Destruction Authorized: The Fire Chief, designated representative or any police officer is authorized to destroy any such devices or fireworks so obtained after complying with the following procedure.
3. Storage Facility: After seizure of such fireworks, the Fire Chief, his designated representative or the police officer shall immediately notify the City Clerk-Treasurer and shall arrange for a secure storage facility for the fireworks.

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4. Notify Owner Of Seizure And Hearing: The City Clerk-Treasurer shall notify in writing (but if no address is reasonably available, verbally) the person from whom the devices have been seized and inform that person that a hearing will be held by the City Council at a regular or special meeting at which time the person shall have the right to appear in person or by counsel for purpose of showing cause, if he has any, why the fireworks should not be destroyed.
5. Council Decision; Destruction For Safety Reasons: The City Council shall conduct said hearing and make a decision as to whether or not the devices should be returned to the individual or should be ordered destroyed. Provided, however, confiscated devices may be destroyed immediately upon a written finding and determination by the Fire Chief or his designated representative that such destruction is necessary to protect the public health, welfare and safety.
C. License Or Permit Revocation Or Suspension: If a person is found guilty of violating any of the provisions of this Chapter, that person's license or permit may be revoked or suspended. (Ord. 1995-01, 6-6-1995)

4-5-3: PERMIT REQUIRED:

A. Application For Permit; Fee: Any person intending to sell, offer to sell or store for sale any fireworks shall first obtain a permit by filing a written application on a form approved by the Fire Department. The form shall include the name and address of the retailer or jobber selling the fireworks and a list of each device to be stored, handled or sold within the City and by paying a fee of fifty dollars ($50.00) to the City Clerk-Treasurer. Such permit shall expire on the following February 1 after issuance and permit shall not be transferable in name or location. (Ord. 1995-01, 6-6-1995)
B. Time Of Sale: Fireworks may be sold at retail between June 20 and July 6 of

each year and six (6) days preceding and including New Year's Day, three (3) days preceding and including Chinese New Year, September 16 and Cinco de Mayo of each year, except that fireworks may be sold all year in permanent retail stores whose primary business is tourism. (Ord. 1995-01, 6-6-1995; amd. 2000 Code)

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C. Right Of Entry For Inspection:

1. The Chief of the Fire Department, his designee representative or any inspector thereof may, at all reasonable hours, enter and inspect the premises, building, vehicle, (motor or mobile), or any structure, temporary or permanent, located at the site designated for the sale, packaging or handling of fireworks, shown on the application for permit.

2. In the event entry is denied, the Fire Chief, his designee or inspector may order the permit to be revoked and cause confiscation of all fireworks, legal or illegal. (Ord. 1995-01, 6-6-1995)

4-5-4: RESTRICTIONS AND GUIDELINES:

A. Permanent Structure Or Temporary Stand: No fireworks shall be sold except from within a permanent structure at a recognized business location or a suitable, temporary (not mobile) stand which will be set up no more than five (5) days prior to official sale date and be removed within five (5) days after each event. The construction or use of fireworks outside of a permanent structure or a mobile stand is prohibited.

B. Maintain Area Free Of Trash And Weeds: All areas immediately c adjacent to fireworks stands and fireworks storage buildings and containers shall be maintained free of all trash, weeds and other readily combustible materials at all times.

C. Sales Near Parked Vehicle: No fireworks may be sold within twenty five feet (25') of any parked vehicle and/or permanent structure, unless such fireworks are sold within a permanent structure. (Ord. 1995-01, 6-6-1995)

4-5-5: COMPLIANCE WITH STATE AND LOCAL REGULATIONS:

Possession, use or sale of any fireworks is lawful only if such possession or sale is in compliance with the licensing and permit provisions of the Act, and only if such fireworks is authorized herein and used in compliance with the Act. Any City certified law enforcement officer, the City Fire Chief or his designated representative may require persons to produce permits or licenses as required by the Act and this Chapter and if not so produced, take action pursuant to subsection 4-5-2B of this Chapter. (Ord. 1995-01, 6-6-1995)

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4-5-6: SALE TO CHILDREN OR INTOXICATED PERSONS PRO-

HIBITED: It is unlawful to offer for sale or to sell any fireworks to children under the age of sixteen (16) years or to any intoxicated person. (Ord. 1995-01, 6-6-1995; amd. 2000 Code)

4-5-7: IGNITING AND EXPLODING CERTAIN DEVICES AUTH-

ORIZED FOR LIMITED PURPOSES: No person shall ignite or explode any flammable or explosive device or chemical composition or substance, including, but not limited to, dynamite, railroad torpedoes, blasting powder, dynamite caps, flashlight powder, signal lights, or gunpowder except in the use of such devices, compositions, or substances for industrial, commercial, professional, scientific or other practical purposes and only as otherwise authorized by law. (Ord. 1995-01, 6-6-1995)

4-5-8: FIRE EXTINGUISHERS: All fireworks perm ittees and

licensees shall keep and maintain upon the premises a fire extinguisher bearing an Underwriters Laboratories, Inc., rated capacity of at least 5-ABC. (Ord. 1995-01, 6-6-1995)

4-5-9: PERSONNEL; AGE LIMITATION:

A. Certification is required that no person under the age of sixteen (16) years shall be permitted to sell fireworks under the authority of the permit of packaging, handling, or sale of fireworks.

B. All persons packaging, handling, or selling fireworks must have in his possession a valid identification card. Proof of age is the responsibility of the vendor. (Ord. 1995-01, 6-6-1995)

4-5-10: PROHIBITED DISCHARGE:

A. Near Retail Sales Location: No fireworks shall be discharged within one hundred fifty feet (150') of any fireworks retail sales location.

B. In Or Near Vehicle: No person shall ignite any fireworks within a motor vehicle or throw fireworks from a motor vehicle, nor shall any person place or throw any ignited article of fireworks into or at a motor vehicle or at or near any person or group of people. (Ord. 1995-01, 6-6-1995)

4-5-11: GASOLINE OR OTHER FLAMMABLE LIQUIDS:

A. No fireworks shall be stored, possessed or used within one hundred fifty feet (150') of gasoline or other flammable liquids unless such liquids are sealed in metal containers of not more than one gallon capacity. (Ord. 1995-01, 6-6-1995; amd. 2000 Code)

B. At all places where fireworks are stored, sold or displayed, the words "No Smoking" in English and Spanish shall be posted in letters at least four inches (4") in height. Smoking, open flames and any ignition source are prohibited within twenty five feet (25') of any fireworks stock. (Ord. 1995-01, 6-6-1995)

4-5-12: CIVIL LIABILITY: Nothing in this Chapter shall relieve any person from any civil liability in connection with the storage, possession, sale or use of fireworks or other devices, compositions, or substances referred to herein. (Ord. 1995-01, 6-6-1995)

4-5-13: PENALTY: Any violation of this Chapter shall be punishable as provided in Section 1-4-1 of this Code. Every day that such violation continues shall constitute a separate offense. (Ord. 1995-01, 6-6-1995; amd. 2000 Code)

TITLE 5

POLICE REGULATIONS

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Public Order And Safety	1B
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CHAPTER 1
CRIMINAL CODE; NUISANCES
ARTICLE A. TITLE; DEFINITIONS; PENALTY
SECTION:
5-1A-1: Title
5-1A-2: Definitions And Rules Of Construction
5-1 A-3: Amendments
5-1A-4: Penalty
5-1A-1: TITLE: This Chapter, including Articles A through F, is called and may be cited as the CRIMINAL CODE ORDINANCE ON GENERAL OFFENSES for the City. (Ord. 1984-20, 12-18-1984)
5-1A-2: DEFINITIONS AND RULES OF CONSTRUCTION: In the construction of the Criminal Code Chapter, the following definitions and rules of construction shall be observed unless it shall be otherwise expressly provided in any section of this Chapter, or unless inconsistent with the manifest intent of this Chapter:
ACCUSED: Any person charged with the violation of any ordinance of the City that imposes a penalty.
ANOTHER, OTHER: Any other human being or legal entity, whether incorporated or unincorporated, including the United States, the State of New Mexico or any subdivision thereof.
ANYTHING OF VALUE: Any conceivable thing of the slightest value, tangible or intangible, movable, corporeal or incorporeal, public or private. The term is not necessarily synonymous with the traditional legal term "property."

BATTERY:
The unlawful, intentional touching or application of force to the person of another, when done in a rude, insolent or angry manner.
BET:
A bargain in which the parties agree that, dependent upon chance, even though accompanied by some skill, one stands to win or lose anything of value specified in the agreement. A bet does not include:
A. Bona fide business transactions which are valid under the laws of contracts, including, without limitation:
1. Contracts for the purchase or sale, at a future date, of securities or other commodities; and
2. Agreements to compensate for loss caused by the happening of chance, including, without limitation, contracts for indemnity or guarantee and life, health and accident insurance.
B. Offers of purses, prizes or premiums to the actual contestants in any bona fide contest for the determination of skill, speed, strength or endurance or to the bona fide owners of animals or vehicles entered in such contest.
C. A "lottery" which is defined as an enterprise wherein, for a consideration, the participants are given an opportunity to win a prize, the award of which is determined by chance, even though accompanied by some skill. As used in this definition, "consideration" means anything of pecuniary value required to be paid to the promoter in order to participate in such enterprise.
D. Betting otherwise permitted by law.
CARRYING A DEADLY WEAPON:
Being armed with a deadly weapon by having it on the person, or in close proximity thereto, so that the weapon is readily accessible for use.

DEFENDANT: Any person accused of a violation of any ordinance of the City that imposes a penalty.
DISORDERLY CONDUCT: Engaging in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to disturb the peace, or maliciously disturbing, threatening or, in an insolent manner, intentionally touching any house occupied by any person.
GOVERNING BODY: The city council or city commission of a city, the board of trustees of a town or village.
HE OR SHE: "He" or "him" or "she" shall not be construed to be mandatory distinctions of gender if not expressly stipulated.
LAWFUL CUSTODY OR CONFINEMENT: The holding of any person pursuant to lawful authority, including, without limitation, actual or constructive custody of prisoners temporarily outside a penal institution, reformatory, jail, prison farm or ranch.
MAYOR: The chief executive officer of municipalities having the mayor-council form of government.
MINOR: Any unmarried person who has not reached his or her eighteenth birthday, except that under application of the Alcohol Beverage Control Act', or any alcohol-related division of this Chapter, "minor" means any person under twenty one (21) years of age.
MUNICIPALITY OR CITY: Any incorporated city, town or village, whether incorporated under general act, special act or special charter.
OFFICIAL PROCEEDING: A proceeding heard before any legislative, judicial, administrative or other governmental agency or official authorized to hear evidence under oath, including any referee, hearing examiner, commissioner, notary or other person

1. NMSA § 7-24-1 et seq.

PERSON: Any human being or legal entity, whether incorporated or unincorporated.
PUBLIC EMPLOYEE: Any public official or public officer vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.
PUBLIC GROUND: Any real property owned or leased by a municipality.
PUBLIC OFFICER: Any elected or appointed officer of the State or any of its political subdivisions, serving with or without remuneration for his services.
POLICE OFFICER, LAW ENFORCEMENT OFFICER, PEACE OFFICER OR OFFICER: Any person receiving remuneration for regular services rendered to the State or any of its political subdivisions.
PROSTITUTION: Knowingly engaging in or offering to engage in sexual intercourse for hire.
SHALL/MAY: "Shall" is mandatory and "may" is permissive.
STREET: Any thoroughfare that can accommodate pedestrian or vehicular traffic, is open to the public and is under the control of the City. (Ord. 1984-20, 12-18-1984)

5-1A-3: AMENDMENTS: Any amendments to this Chapter shall be adopted as ordinances as required by State law, and when passed in such form as to indicate the intention to make the same a part thereof, shall be incorporated into this Chapter so that reference to it as "the Criminal Code Ordinance On General Offenses" shall be understood as including such amendments. (Ord. 1984-20, 12-18-1984)

5-1A-4: PENALTY: Any person found guilty of violating any of the provisions of this Chapter shall be subject to penalty as provided in Section 1-4-1 of this Code, and each day this Chapter is violated shall constitute a separate offense; provided, however, that if a

specific penalty is provided therefor, in any particular and individual section of this Chapter, then the specific penalty shall prevail. (Ord. 1984-20, 12-18-1984; amd. 2000 Code)

CHAPTER 1
CRIMINAL CODE; NUISANCES
ARTICLE B. PUBLIC ORDER AND SAFETY
SECTION:

5-1B- 1: 5-1B- 2: 5-1B- 3: 5-1B- 4: 5-1B- 5: 5-1B- 6: 5-1B- 7: 5-1B- 8: 5-1B- 9:
5-1B-10: 5-1B-11: 5-1 B-12: 5-1B-13: 5-1B-14: 5-1B-15: 5-1B-16:
Assault And Battery
Trespass
Prowling
Disturbing The Peace
Disorderly Conduct
Unlawful Assembly
Vagrancy
Obstructing Movement
Removal Of Barricades
Deadly Weapons
Failure To Report Treatment Of Wounds Propelling Of Missiles
Possession Of Burglary Tools False Alarms Or Reports Offenses Relating To Officers Escape Of Prisoners

5-1B-1: ASSAULT AND BATTERY:

A. Assault: It is unlawful for any person to commit a battery upon the person of another, nor shall any person, by any unlawful act, threat or menacing conduct, cause another person to believe he is in danger of receiving an immediate battery, nor shall any person, by the use of insulting language toward another, impugn his honor, delicacy or reputation.

B. Battery: It is unlawful for any person to beat, strike, wound, inflict violence or apply force to the person of another, nor shall a person intentionally touch or apply force to the person of another in a rude, insolent, angry or hostile manner except in connection with an

exhibition duly authorized and licensed under law, or in lawful self defense, or in the line of duty as a duly authorized police officer as circumstances warrant.

C. Aggravated Battery: It is unlawful for any person to commit aggravated battery upon the person of another, nor shall any person unlawfully touch or apply force to the person of another with intent to injure that person or another, or inflict an injury to the person which is not likely to cause death or great bodily harm, but does cause painful temporary disfigurement or temporary loss or impairment of the functions of any member or organ of the body. (Ord. 1984-20, 12-18-1984)

5-1B-2: TRESPASS: It is unlawful to enter or remain, with malicious intent, on the property of another knowing that consent to enter or remain has been denied or withdrawn by the owner or occupant thereof. (Ord. 1984-20, 12-18-1984)

5-1B-3: PROWLING: It is unlawful for any person to loiter or prowl in a place, at a time, or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon appearance of a peace officer, refuses to identify himself, or manifestly endeavors to conceal himself or any object. Unless flight by the actor or other circumstance makes it impracticable, a peace officer shall, prior to any arrest for an offense under this Section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this Section if the peace officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true and, if believed by the peace officer at the time, would have dispelled the alarm. (Ord. 1984-20, 12-18-1984)

5-1 B-4: DISTURBING THE PEACE: It is unlawful for any person to disturb or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any property owned by him or under his control or supervision. (Ord. 1984-20, 12-18-1984)

5-1 B-5: DISORDERLY CONDUCT: Disorderly conduct is unlawful. A person is guilty of disorderly conduct if he or she:

A. Creates a disturbance of the public order by an act of violence or by any act likely to produce violence.

B. Engages in fighting, or in violent, threatening or tumultuous behavior.

C. Makes any unreasonably loud noise.

D. Addresses abusive language or threats to any person present which creates a clear and present danger of violence.

E. Causes likelihood of harm or serious inconvenience by failing to obey a lawful order of dispersal by a police officer, where three (3) or more persons are committing acts of disorderly conduct in the immediate vicinity.

F. Damages, befouls or disturbs public property or property of another so as to create a hazardous, unhealthy or physically offensive condition.

G. Commits a trespass on residential property or on public property. "Trespass" for the purpose of this Article shall mean:

1. Entering upon, or refusing to leave, any residential property of another, either where such property has been posted with "No Trespassing" signs, or where immediately prior to such entry, or subsequent thereto, notice is given by the owner or occupant, orally or in writing, that such entry, or continued presence, is prohibited.

2. Entering upon, or refusing to leave, any public property in violation of regulations promulgated by the official charged with the security, care or maintenance of the property and approved by the governing body of the public agency owning property, where such regulations have been conspicuously posted or where immediately prior to such entry, or subsequent thereto, such regulations are made known by the official charged with the security, care or maintenance of the property, his agent or a police officer.

H. Makes a telephone call with intent to annoy another, whether or not conversation ensues.

I. Assembles together with two (2) or more persons with intent to do any unlawful act with force or violence against the person or property

of another, and who makes any overt act to carry out such unlawful purpose.
J. Disturbs, threatens, or in any insolent manner intentionally touches any house or vehicle occupied by any person. (Ord. 1984-20, 12-18-1984)
5-1B-6: UNLAWFUL ASSEMBLY: It is unlawful for three (3) or more persons to assemble with intent to do any unlawful act by force or violence against the person or property of another and to make any overt act to carry out such unlawful purpose. (Ord. 1984-20, 12-18-1984)
5-1B-7: VAGRANCY: The following acts comprise the crime of vagrancy, and their commission is unlawful:
A. Waiting or remaining within a public, private or parochial school building or upon school grounds, not having any reason or relationship involving custody of or responsibility for a student, without the written permission of a school official, or in violation of posted rules or regulations.
B. Occupying, lodging or sleeping in any vacant or unoccupied barn, i house, car, shed, shop or other building or structure or in any l automobile, truck, railroad car or other vehicle without owning the same or without the permission of the owner or person entitled to possession thereof or sleeping in any vacant lot.
C. Begging from door to door, to private houses or commercial business establishments or placing oneself in or upon any public way or public place to beg. (Ord. 1984-20, 12-18-1984)
5-1B-8: OBSTRUCTING MOVEMENT: It is unlawful to hinder, annoy or molest persons passing along any street, sidewalk, crosswalk or other public way, or to lie, sit or stand around the entrance of any church, theater, public building, or other place of public assemblage in any manner so as to unreasonably obstruct such entrance or to place or erect upon any public way an obstruction of any type except temporary barriers or warning signs placed for the purpose of safeguarding the public against any hazard. (Ord. 1984-20, 12-18-1984)

5-1B-9: REMOVAL OF BARRICADES: It is unlawful to remove, destroy or interfere with any barrier, guard or light placed before or in any dangerous place near the streets, sidewalks or other public ways of the City for the purpose of warning or protecting travelers from injury or danger; provided, that removal after the danger has ceased and temporary removal to allow the passage of a vehicle with immediate subsequent replacement shall not be considered unlawful. (Ord. 1984-20, 12-18-1984)
5-1B-10: DEADLY WEAPONS:
A. Carrying Of Deadly Weapons: It is unlawful to carry within the City a concealed, loaded firearm or other weapon capable of producing death or great bodily harm including, but not restricted to, any types of daggers, brass knuckles, switchblade knives, bowie knives, poniards, butcher knives, dirk knives, chains, can openers, ice picks, and all such weapons with which dangerous cuts or punctures can be inflicted, including swordcanes and any kind of sharp pointed canes, also slingshots, bludgeons or any other weapon with which dangerous wounds can be inflicted, except in a person's residence or on real property belonging to him as owner, lessee, tenant or licensee or in a private automobile or other private means of conveyance for lawful protection of one's person or property while traveling or for other lawful purposes. (Ord. 1984-20, 12-18-1984)
B. Discharge Of Firearms: It is unlawful to discharge within the City limits any pistol, revolver, rifle or shotgun which may be used for the explosion of

cartridges.
C. Air And BB Guns; Other Weapons: It is unlawful for anyone to shoot within the City any air rifle, air gun or BB gun or any gas-operated gun or any device used for propelling missiles, or any slingshot or missile propelling device, or any bow made for the purpose of throwing or projecting missiles of any kind by any means whatsoever, whether any instrument is called by any name set forth above or by any other name. Parents who permit the violation of this subsection shall be deemed guilty of a violation of Section 5-1 B-5 of this Article. (Ord. 1984-20, 12-18-1984; amd. 2000 Code)
D. Exception For Peace Officers: The provisions set forth above shall not be construed to forbid police officers from carrying, wearing or discharging such weapons as shall be necessary in the proper discharge of their duties.

E. Exposing Others To Danger: It is unlawful to endanger the safety of another or his property by using a firearm or other deadly weapon in a negligent manner or to carry a firearm while under the influence of any intoxicant or narcotic, intoxicant or to sell, loan or furnish any deadly weapon to persons under the influence of any intoxicant or narcotic or to any incompetent person.
F. Prohibited Weapons: It is unlawful to manufacture, cause to be manufactured, possess, display, offer, sell, or lend any knife which has a blade which opens automatically by hand pressure applied to a button, spring or other device or any knife having a blade which opens, falls or is ejected into position by the force of gravity or by any outward or centrifugal thrust or movement.
G. Sales To Minors: It is unlawful to give, sell, trade, barter or exchange for anything of value any deadly weapon, air rifle, air gun or BB gun, or ammunition for any firearm to any person under the age of eighteen (18) years; provided, that this subsection shall not be construed to prevent any parent or legal guardian from purchasing firearms or ammunition for his child or ward. (Ord. 1984-20, 12-18-1984; amd. 2000 Code)
5-1B-11: FAILURE TO REPORT TREATMENT OF WOUNDS: It is unlawful for any physician, surgeon or other practitioner of the healing arts licensed by the State to fail to immediately report to the Police Department his treatment of any person in the City for a wound inflicted by a deadly weapon of any kind. (Ord. 1984-20, 12-18-1984)
5-1B-12: PROPELLING OF MISSILES: It is unlawful for any person to shoot, sling or throw any stone, rock or other propellant, missile or substance in any manner as to be reasonably likely to cause injury to any person or property. (Ord. 1984-20, 12-18-1984)
5-1B-13: POSSESSION OF BURGLARY TOOLS: It is unlawful to possess any lock pick, skeleton key or key to be used with a bit or bits, jimmy, sledge hammer, pry bar, cold chisel, dynamite, nitroglycerine, blasting caps, or any other burglary instrument or instruments commonly used by burglars unless such possession is for a lawful purpose. (Ord. 1984-20, 12-18-1984)

5-1B-14: FALSE ALARMS OR REPORTS:
A. False Alarms: It is unlawful for any person to make, turn in or give a false alarm of fire or of need for police or ambulance assistance, or to interfere with the proper functioning of an alarm system, or to aid or abet the commission of such an act.
B. False Reports: It is unlawful for any person to maliciously make or file with the Police Department any false, misleading or unfounded report or statement concerning the commission or alleged commission of any crime. (Ord. 1984-20, 12-18-1984)
5-1B-15: OFFENSES RELATING TO OFFICERS:

A. Interference With Officers: It is unlawful to resist, abuse, molest, hinder, obstruct or refuse to obey or assist when called upon to do so, any police officer, firefighter, emergency medical personnel or judge while in the discharge of his duty.
B. Impersonating An Officer: It is unlawful for any person other than a duly commissioned police officer to wear or carry the uniform, apparel, badge, identification card or other insignia of office, the same, similar or a colorable imitation of that adopted and worn or carried by duly commissioned police officers, unless acting in the course of regular business and with the permission of the City, or, without authority, to exercise or attempt to exercise the functions of, or pretend to be, a peace officer or judge.
C. Assault Upon Peace Officer: It is unlawful for any person to commit assault upon a peace officer. Assault upon a peace officer consists of:
1. An attempt to commit a battery upon the person of a peace officer while he is in the lawful discharge of his duties; or
2. Any unlawful act, threat or menacing conduct which causes a peace officer while he is in the lawful discharge of his duties to reasonably believe that he is in danger of receiving an immediate battery.
D. Unauthorized Use Of Certain Words And Insignia: It is unlawful to display on any vehicle or sign, without authority of the City, the words "police", Police Department", "Fire Department", or words or insignia of similar import, whose design or form is such that it

appears to be an official vehicle or sign of the Fire or Police Departments of the City; provided, that nothing contained herein shall apply to any State or County vehicle. (Ord. 1984-20, 12-18-1984)
5-1B-16: ESCAPE OF PRISONERS:
A. Escape From Jail Or Custody: It is unlawful for any person, while a prisoner of the City or otherwise in the custody of or confined by the City to escape or, attempt to escape or to assist other prisoners to escape or attempt to escape from such custody or confinement.
B. Assisting Escape: It is unlawful for any person to assist, attempt to assist or offer to assist any person in custody of or confined under the authority of the City to escape from jail, place of confinement or custody. (Ord. 1984-20, 12-18-1984)

CHAPTER 1
CRIMINAL CODE; NUISANCES
ARTICLE C. PROPERTY
SECTION:
5-1C- 1: 5-1C- 2: 5-1C- 3: 5-1C- 4: 5-1C- 5: 5-1C- 6: 5-1C- 7: 5-1C- 8: 5-1C- 9: 5-1C-10: 5-1C-11:
Destroying Or Defacing Property Library Property
Scattering Trash, Rubbish Advertising Matter
Petty Larceny; Fraud
Receiving Stolen Property Shoplifting
Issuing Worthless Checks
Falsely Obtaining Services Or Accommodations Wrongful Use Of Public Property
Removal Of Earth
5-1 C-1: DESTROYING OR DEFACING PROPERTY: It is unlawful for any person to wilfully, maliciously or wantonly destroy, injure, remove, tamper with or deface real property or improvements thereto or personal property, either public or private. (Ord. 1984-20, 12-18-1984)
5-1C-2: LIBRARY PROPERTY: It is unlawful for any person to carry away without authority, misuse, cut, write upon, injure, deface, tear or destroy

any book, periodical, map, newspaper or any other property devoted to public library use. (Ord. 1984-20, 12-18-1984)

5-1C-3: SCATTERING TRASH, RUBBISH: It is unlawful for any person to throw or permit to be deposited or scattered upon any sidewalk, alley, street or public property or upon the private property of another, any rubbish, waste, trash or other disposed material of any kind. (Ord. 1984-20, 12-18-1984)

5-1 C-4: ADVERTISING MATTER':

A. It is unlawful for any person to distribute any commercial advertising such as showcards, posters, brochures, circulars or handbills upon any public street or way.

B. It is unlawful for any person to distribute, place or post in or upon any private property, including utility poles, any showcard, poster, handbill or other announcement or advertisement without the express consent of the owner or occupant of the property.

C. It is unlawful for any person to post or affix any poster, handbill or other form of advertisement upon the surface of any public structure or building without the express consent of the public official having charge of said public structure or property. (Ord. 1984-20, 12-18-1984)

5-1C-5: PETTY LARCENY; FRAUD: It is unlawful for any person to steal, convert, embezzle or acquire by fraud the property of another including any money, goods, chattels, bank notes, bonds, promissory notes, bills of exchange, other bills, orders, certificates or any books of account for or concerning money due or to become due and to be delivered. If the property stolen, converted, embezzled or acquired by fraud exceeds the value of one hundred dollars ($100.00), the matter shall be referred to the District Attorney. (Ord. 1984-20, 12-18-1984)

5-1C-6: RECEIVING STOLEN PROPERTY: It is unlawful to buy, procure, receive or conceal anything of value knowing the same to have been stolen, converted, embezzled or acquired by fraud. (Ord. 1984-20, 12-18-1984)

5-1 C-7: SHOPLIFTING:

A. It is unlawful for any person to wilfully take possession of or conceal any merchandise valued at not more than one hundred dollars ($100.00) offered for sale with the intention of converting it without paying for it or to wilfully alter any label, price tag or marking upon any merchandise, or transfer any merchandise from one container to

1. See also subsection 4-3-1 H of this Code.

another with the intention of depriving the merchant of all or part of the value of the merchandise.

B. Any person who wilfully conceals merchandise on his person or on the person of another or among his belongings or the belongings of another or on or outside the premises of the store shall be prima facie presumed to have concealed the merchandise with the intention of converting it without paying for it.

C. If any merchandise is found to be concealed on any person or among his belongings, it shall be prima facie evidence of wilful concealment. Any offense concerning merchandise valued at more than one hundred dollars ($100.00) shall be turned over to a higher authority. (Ord. 1984-20, 12-18-1984)

5-1C-8: ISSUING WORTHLESS CHECKS: It is unlawful to issue in exchange for anything of value with intent to defraud any check, draft, or order for the payment of money in the amount of one dollar ($1.00) to twenty five dollars ($25.00) upon any bank or other depository knowing, at the time of such issue that insufficient funds or credit exists with the bank or other depository for the payment in full by such check, draft or order. Any person convicted of issuing

worthless checks shall be subject to penalty as provided in Section 1-4-1 of this Code. Offense of issuance of fraudulent check in excess of twenty five dollars ($25.00) shall be turned over to a higher authority. (Ord. 1984-20, 12-18-1984; amd. 2000 Code)

5-1 C-9: FALSELY OBTAINING SERVICES OR ACCOMMODATIONS: It is unlawful for any person to falsely obtain services or accommodations, or for any person to obtain any service, food, entertainment or accommodations without paying therefor, and with the intent to cheat or defraud the owner or person supplying such service, food, entertainment or accommodations. Any offense concerning falsely obtaining services or accommodations when the value of the service, food, entertainment or accommodations is in excess of one hundred dollars ($100.00) shall be turned over to a higher authority. (Ord. 1984-20, 12-18-1984)

5-1C-10: WRONGFUL USE OF PUBLIC PROPERTY: It is unlawful for any person to commit unlawful use of public property by knowingly entering any public property without permission of the lawful

custodian or his representative when the public property is not open to the public, or remaining in or occupying any public property after having been requested to leave by the lawful custodian, or his representative, who has determined that the public property is being used or occupied contrary to its intended or customary use or that the public property may be damaged or destroyed by the use. (Ord. 1984-20, 12-18-1984)

5-1C-11: REMOVAL OF EARTH: It is unlawful for any unauthorized person to move, distribute or take away any earth, stone or other material from any public street, way, alley, park or public ground. (Ord. 1984-20, 12-18-1984)

CHAPTER 1
CRIMINAL CODE; NUISANCES
ARTICLE D. PUBLIC MORALS
SECTION:

5-1D-1: Lewd, Immoral Or Obscene Acts
5-1 D-2: Sale Or Distribution Of Obscene Materials
5-1 D-3: Window Peeping
5-1 D-4: Gambling
5-1 D-5: Aiding Illegal Activity
5-1 D-6: Marijuana, Possession Prohibited

5-1 D-1: LEWD, IMMORAL OR OBSCENE ACTS: The following acts are lewd, immoral or obscene and their commission is unlawful:

A. Alcoholic Beverages:

1. Being present in any establishment where alcoholic beverages are sold and engaging in the practice of or for the purpose of soliciting others to purchase alcoholic beverage; provided, that this provision does not apply to one employed as a bartender, waitress or waiter.

2. As the owner or operator of any establishment where alcoholic beverages are sold, to knowingly permit the presence in such establishment of any person who violates the provisions of subsection Al of this Section.

B. Prostitution And House Of Prostitution:

1. Prostitution, which means knowingly engaging in or offering to engage in sexual intercourse for hire.

2. Entering or remaining in a house of prostitution with intent to engage in sexual intercourse with a prostitute.

3. Knowingly hiring a prostitute to engage in sexual intercourse.
4. Knowingly establishing, owning, maintaining or managing a house of prostitution or participating in the establishment, ownership, maintenance or management thereof.
5. Knowingly permitting any place to be used as a house of prostitution.
6. Procuring a prostitute for a house of prostitution.
7. Inducing another to become a prostitute.
8. Living wholly or partly upon the earnings of prostitution.
9. Knowingly soliciting a patron for a prostitute or for a house of prostitution.
10. Knowingly procuring a prostitute for a patron.
11. Knowingly procuring transportation for, paying for the transportation of, or transporting a person within the City with the intention of aiding that person to engage in prostitution.
12. Knowingly being employed by a house of prostitution or to perform any function which constitutes promoting prostitution.
C. Indecent Exposure: Knowingly and intentionally exposing the primary genital area to public view. "Primary genital area" means the mons pubis, penis, testicles, mons veneris, vulva or vagina. (Ord. 1984-20, 12-18-1984)
5-1 D-2: SALE OR DISTRIBUTION OF OBSCENE MATERIALS:
A. Definitions:
1. "Sale" or "distribution", is an offense committed when a person sells, lends, rents, leases, gives, advertises, publishes, exhibits or otherwise disseminates to any person any obscene material of any description, knowing the obscene nature thereof, or who offers to do so, or who possesses such material with the intent to do so.
2. Material is "obscene" if taken as a whole, applying contemporary community standards, its predominant appeal is to prurient interests,

If

that is, a shameful or morbid interest in nudity, sex or excretion, and utterly without redeeming social value and if, in addition, it goes substantially beyond contemporary community standards of candor in describing or representing such matters.
3. A person is a "minor" if unmarried and has not reached the eighteenth birthday.
B. Illegal Acts; Penalty:
1. It is unlawful to possess with intent to sell or distribute, or sell or distribute, obscene material in the City. (Ord. 1984-12, 8-7-1984)
2. Any person found guilty of violating this Section shall be subject to penalty as provided in Section 1-4-1 of this Code. Each separate day of a continuing violation shall constitute a separate offense. (Ord. 1984-12, 8-7-1984; amd. 2000 Code)
C. Enforcement: The City Attorney is hereby directed to take such action as is necessary to enforce the provisions of this Section including criminal prosecution and civil actions for declaratory judgment or injunction.
D. Reference To State Statute: This Section is adopted and enforced pursuant to the authority granted the City in New Mexico Statutes Annotated section 3-18-17 and is applied to adults and not to minors. The reason this Section only applies to adults is because the legislature in New Mexico Statutes Annotated section 30-37-8 prohibits the City from protecting minors with this Section. In the event any City employee or official has reason to believe that a violation of this Section is occurring but that the violation relates to a minor, the employee or official shall report the violation to the District Attorney for action by him. (Ord. 1984-12, 8-7-1984)

5-1 D-3: WINDOW PEEPING: It is unlawful for any person to enter upon any private property and look, peer, or peep into or be found around or within the view of any window or other means of viewing into any occupied building, other than his own residence, with the intent of observing a person or persons undressed, dressing or undressing or engaging in sexual acts. (Ord. 1984-20, 12-18-1984)

5-1 D-4: GAMBLING:

A. Engaging In Gambling: It is unlawful for any person to make a bet, enter or remain in a gambling place with intent to make a bet, participate in a lottery or play a gambling device or to conduct a lottery or possess facilities with intent to conduct a lottery.

B. Commercial Gambling: It is unlawful to participate in the earnings of or to operate a gambling place; or to receive, record, forward or possess facilities with the intent to receive or forward bets or offers to bet or become a custodian of anything of value bet or offered to be bet; or to conduct a lottery or possess facilities with the intent to conduct a lottery where both the consideration and the prize are money; or to set up for use for the purpose of gambling, or operate any gambling device or collect the profits therefrom.

C. Permitting Use Of Premises: It is unlawful for any person to knowingly permit any property owned or occupied by him or under his control to be used as a gambling place or to knowingly permit a gambling device to be set up for the purpose of gambling in a place under his control.

D. Dealing In Gambling Devices: It is unlawful to manufacture, commercially transfer or possess with the intent to commercially transfer any device which he knows evidences, purports to evidence or is designed to evidence a gambling purpose or any device which he knows is designed exclusively as a subassembly or essential part of such device including, but not limited to, gambling machines, numbers, jars, punchboards or roulette wheels. Proof of possession of any device designed exclusively for gambling purposes other than in a gambling place and not set up for use is prima facie evidence of possession with intent to transfer commercially.

E. Exceptions:

1. Lottery: Nothing in this Section shall be construed to apply to any sale or drawing of any prize at any fair held in the State for the benefit of any church, public library or religious society if such benefit shall be expended in the State for the benefit of such church, public library, religious society or charitable purposes. A lottery may be operated for the benefit of the organization or charitable purpose only when the entire proceeds of the lottery go into the organization for charitable purposes and no part of such proceeds go to any individual member or employee thereof.

2. Prizes For Advertising Purposes: Nothing in this Section shall be held to prohibit any motion picture theater from offering prizes of cash or merchandise for advertising purposes in connection with such business whether or not any consideration other than monetary in excess of the regular price of admission is exacted for participation in drawings for prizes.

3. On-Track Pari-Mutuel Betting: Nothing in this Section shall be construed to prohibit on-track pari-mutuel betting as authorized by New Mexico Statutes Annotated section 60-1-11. (Ord. 1984-20, 12-18-1984)

5-1D-5: AIDING ILLEGAL ACTIVITY: It is unlawful to be found in any place where gambling or prostitution is being conducted with knowledge of such activity or to give or attempt to give any signal intended to give warning of the approach of any police officer to any person in or about any place where any

illegal activity is being conducted. (Ord. 1984-20, 12-18-1984)

5-1 D-6: MARIJUANA, POSSESSION PROHIBITED:

A. Definitions:

MARIJUANA: All parts of the plant Cannabis sativa L., whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds. It does not include the mature stalks of the plant, hashish, tetrahydrocannabinols extracted or isolated from marijuana, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake or the sterilized seed of the plant which is incapable of germination.

PRACTITIONER: A physician, dentist, veterinarian or other person licensed to prescribe and administer

drugs which are subject to the Controlled Substance Act of New Mexico'.

B. Prohibition: It is unlawful for any person intentionally to possess marijuana unless it was obtained pursuant to a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by law. (Ord. 1984-20, 12-18-1984)

C. Penalties:

1. Any person found guilty of violating this Section with respect to one ounce or less of marijuana shall be punished as provided in Section 1-4-1 of this Code.

2. Second and subsequent offenses, and possession of more than one ounce of marijuana shall be turned over to a higher jurisdiction. (Ord. 1984-20, 12-18-1984; amd. 2000 Code)

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1. NMSA § 30-31-1 et seq.

CHAPTER 1

CRIMINAL CODE; NUISANCES

ARTICLE E. MINORS

SECTION:

5-1E-1: Abandonment Of Children
5-1E-2: Cruelty To Children
5-1E-3: Enticement Of Child
5-1E-4: Unlawful Assistance To Minors
5-1E-5: Unlawful Presence In Liquor Establishments
5-1E-6: Offenses By Minors
5-1E-7: Failure Of Parental Responsibility
5-1E-8: Abandonment Of Dangerous Objects
5-1E-9: Certain Glues Or Cements Restricted
5-1E-10: Host Responsibility

5-1E-1: **ABANDONMENT OF CHILDREN:** It is unlawful for the parent, guardian or custodian of a child to intentionally leave the child or abandon him under the circumstances whereby the child may suffer from neglect. (Ord. 1984-20, 12-18-1984)

5-1E-2: **CRUELTY TO CHILDREN:** It is unlawful for any parent, guardian or other person having the care or custody of any child to cause or permit any child to be placed in a situation where the life or health of such child will be endangered, or to torture, cruelly confine or cruelly punish such child or to wilfully or negligently expose such child to the inclemency of the weather. (Ord. 1984-20, 12-18-1984)

5-1E-3: **ENTICEMENT OF CHILD:** It is unlawful to persuade any child under the age of sixteen (16) years to enter a vehicle, building, room or secluded place with intent to commit an act which would constitute a crime under article 9 of the Criminal Code[1], or having possession of a child under the age of sixteen (16) years to commit such a crime. (Ord. 1984-20, 12-18-1984)

1. NMSA § 30-9-1 et seq.

5-1E-4: **UNLAWFUL ASSISTANCE TO MINORS:** It is unlawful to assist minors to buy, procure, obtain, or be served any alcoholic beverages or to induce any person to sell, serve or deliver any alcoholic beverage to a minor by actual or constructive misrepresentation of any facts calculated to cause, or by the concealment of any facts which are calculated to cause, the person selling, serving or delivering such alcoholic beverages to sell to a minor or to any person for ultimate delivery to a minor. (Ord. 1984-20, 12-18-1984)

5-1 E-5: **UNLAWFUL PRESENCE IN LIQUOR ESTABLISHMENTS:** It is unlawful for the owner or operator of any establishment serving alcoholic beverages to permit any person under the age of twenty one (21) to attend, work in, frequent or loiter in or about such premises unless such person is accompanied by his parent or guardian. (Ord. 1984-20, 12-18-1984)

5-1E-6: **OFFENSES BY MINORS:**

A. Curfew: It is unlawful for any person under the age of eighteen (18) years to loiter, idle, wander, stroll or play in or upon the public streets, highways, alleys, parks, playgrounds, other public places or buildings, or vacant lots between the hours of ten thirty o'clock (10:30) P.M. and four o'clock (4:00) A.M.; provided, however, that this Section shall not apply to a minor accompanied by parent, guardian or other adult person having the care and custody of such minor or where the minor is upon an emergency errand or legitimate business directed by persons having the care or custody of him.

B. False Statement Or Identification: It is unlawful for any minor to make false statements or to furnish, present or exhibit any fictitious or false registration card, identification card or other instrument, or to furnish, present or exhibit any document issued to another person, for the purpose of gaining admission to prohibited places or for the purpose of procuring the sale, gift or delivery of prohibited articles including, but not limited to, alcoholic beverages.

C. Procuring Unlawful Services: It is unlawful for any minor to engage or authorize the services of any other person to procure for such

minor any article which the minor is prohibited by law to purchase. (Ord. 1984-20, 12-18-1984)

5-1 E-7: FAILURE OF PARENTAL RESPONSIBILITY: It is unlawful for any parent, guardian or other adult person having the care and custody of a minor to knowingly permit such minor to violate the provisions of subsection 5-1B-10C of this Chapter, or Section 5-1E-4, 5-1E-5 or 5-1E-6 of this Article. (Ord. 1984-20, 12-18-1984)

5-1 E-8: ABANDONMENT OF DANGEROUS OBJECTS:

A. Containers: It is unlawful to abandon, discard or keep in any place accessible to children any refrigerator, icebox, freezer, airtight container, cabinet or similar container of a capacity of one and one-half (02) cubic feet or more which is no longer in use without sealing or removing the doors or other entrances so as to make it impossible for any child to be imprisoned therein, or being the owner, lessee or operator of any premises to permit such articles to remain upon such premises in a condition whereby a child may be imprisoned therein.

B. Plastic Bags: It is unlawful for any person to abandon, expose, leave in any place accessible to children or permit upon premises under his control any plastic bag without first tearing the same sufficiently to render it no longer dangerous to a child. (Ord. 1984-20, 12-18-1984)

5-1 E-9: CERTAIN GLUES OR CEMENTS RESTRICTED:

A. Definitions:

AEROSOL: Does not include any aerosol spray product or other chemical substance used for legitimate medicinal purposes and obtained either on a prescription basis or for medicinal purposes by a person over the age of eighteen (18).

GLUE: Shall mean what is commonly referred to as plastic or model airplane cement and includes any cement containing hexane, benzene, toluene, xylene, carbon tetrachloride,

chloroform, ethylene dichloride, acetone, cyclohexanone, methyl ethyl ketone, methyl isobutyl ketone, amyl acetate, butyl acetate, ethyl acetate, tricresyl phosphate, butyl alcohol, ethyl alcohol, isopropyl alcohol, methylcellosolve acetate, trichloroethane or ether.

B. Prohibited Conveyance: It is unlawful to sell, offer for sale, deliver or give to any person under the age of eighteen (18) years any glue; provided, however, such is not unlawful when the glue or cement is sold, delivered or given simultaneously with and as part of a kit used for the construction of model airplanes, model boats, model automobiles, model trains or other similar models.

C. Prohibited Use: No person shall intentionally smell, sniff or inhale the fumes or vapors from a glue, aerosol spray product or other chemical substance for the purpose of causing a condition of or inducing symptoms of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, stupefaction or dulling of the senses, or for the purpose of in any manner changing, distorting or disturbing the audio, visual or mental processes and no person shall intentionally possess a glue, aerosol spray product or other chemical substance for any such purpose. (Ord. 1988-06, 5-4-1988)

D. Penalties:

1. Penalty Imposed: Any person found guilty of violating any of the provisions of this Section shall be subject to penalty as provided in Section 1-4-1 of this Code, and each time this Section is violated shall constitute a separate offense.

2. Mandatory Fee: Any person convicted of a violation of the provisions of this Section shall be assessed, in addition to any other fee or fine, a fee of twenty five dollars ($25.00) to defray the costs of chemical and other analyses of controlled substances and the money collected shall be transmitted to the administrative office of the courts. All fees collected under this Section shall be subject to an audit by the

State Auditor. (Ord. 1988-06, 5-4-1988; amd. 2000 Code)

5-1E-10: **HOST RESPONSIBILITY:**

A. Definitions: The terms used in this chapter have the meaning expressly provided herein.

ADULT:	Any person over the age of twenty-one (21) years.
ALCOHOLIC BEVERAGE:	Includes any liquid or solid material intended to be ingested by a person which contains ethanol, also known as ethyl alcohol, drinking alcohol, or alcohol, including, but not limited to, intoxicating liquor, malt beverage, beer, wine, spirits, liqueur, whiskey, rum, vodka, cordials, gin, and brandy, and any mixture containing one (1) or more alcoholic beverages. Alcoholic beverage includes a mixture of one (1) or more alcoholic beverages whether found or ingested separately or as a mixture.
CONTROLLED SUBSTANCE:	A drug or substance the possession and use of which is regulated under the federal controlled substances act. Such term does not include any drug or substance for which the individual found to have consumed such substance has a valid prescription issued by a licensed medical practitioner authorized to issue such a prescription.
FAMILY GATHERING:	A gathering where each underage person present is directly supervised by his or her parent or legal guardian.
LEGAL GUARDIAN:	A person who is lawfully vested with the power and charged with the duty of taking care of an underage person.
UNDERAGE PERSON:	Any person under the age of twenty-one (21) years.
PARENT:	Any person who is a natural parent, an adoptive parent, a foster parent, or a step-parent.
PRIVATE RESIDENCE OR OTHER PRIVATE PROPERTY:	A home, yard, apartment, condominium, or other dwelling unit, or a hall or meeting room, whether occupied on a temporary or permanent basis, whether occupied as a dwelling, party or

other social function, and whether owned, leased, rented, or used with or without compensation, including contiguous properties, and/or any buildings, structures or other improvements situated thereon or affixed thereto.

REASONABLE COSTS: The salaries of the responding Police Officers, Fire personnel or other city emergency personnel, at the salary then in effect for each classification of each individual officer or fireman, for the amount of time actually spent in responding to or remaining at the party, or investigating the gathering or event; appropriate overhead; the actual cost of any medical treatment to injured officers; the cost of repairing any damaged City equipment or property, the cost of towed vehicles, the cost of Fire Department vehicle response, and the cost of court overtime associated directly with the incident.

RESPONSIBLE PERSON: A person or persons with a right of possession in the private residence or other private property on which an underage or unruly gathering is conducted, including, but not limited to:

A. The person(s) who own, rent, lease or otherwise has direct control of the premises where the underage or unruly gathering occurs;

B. A tenant(s) or lessee(s) of the residence or other private property;

C. Any other person(s) in charge of the private residence or other private property; and

D. The person(s) who organizes or supervises or conducts the event or any other person(s) accepting responsibility for such a gathering.

UNDERAGE GATHERING: A party or gathering of two (2) or more persons at a private residence or other private property at which alcoholic beverages are being furnished to, consumed by, or in possession of any underage person.

UNRULY GATHERING: A party or gathering of two (2) or more persons at a private residence or other private property where conduct is occurring that constitutes a substantial disturbance of the quiet enjoyment of private or public property. Such conduct includes but not limited to:

A. Unlawful consumption of alcohol or alcoholic beverages;

B. Use of a controlled substance by any person at the gathering;

C. Excessive noise as defined by (relevant local ordinance);

D. Excessive traffic that is significantly in excess of the normal amount of pedestrian and vehicle traffic for the zoning district;

E. Obstruction of public streets and/or the presence of unruly crowds that have spiffed into public streets;

F. Assaults, batteries, fights, domestic violence, sexual assault, or other disturbances of the peace;

G. Vandalism;

H. Litter; or

I. Any other conduct which constitutes a threat to the public health, safety, quiet enjoyment of residential property or the general welfare.

An unruly gathering shall constitute a public nuisance.

B. Violations:

1. It shall be a petty misdemeanor for any responsible person to conduct, aid, allow, permit, or condone an underage or unruly gathering, at any private residence, other private property, public place, or any place open to the public.

2. This section shall not apply to conduct involving the serving of alcoholic beverages that occurs exclusively between an underage person and his or her parent or legal guardian, as permitted by New Mexico state statute, NMSA § 60-7B-1.

5-1E-10

C. Mandatory Penalties:

1. First violation: two hundred fifty dollars ($250.00) fine.

2. Second offense within twelve (12) months: five hundred dollars ($500.00) fine.

3. Third and any subsequent offense within twelve (12) months: five hundred dollars ($500.00) and up to ninety (90) days in jail.

D. Recovery of Response Costs:

1. When the Police Department, Fire Department and/or other city emergency responder responds to a Social Host Ordinance violation with a given address in the city, the responsible persons in direct control of those premises remains responsible for, jointly and severally liable for the City's reasonable costs for that response.

2. These costs are wholly separate from any other penalties imposed for a violation of this Section. The City may pursue to recover these costs under a separate action as permitted by law. (Ord. 2017-1, 7-18-2017)

CHAPTER 1
CRIMINAL CODE; NUISANCES
ARTICLE F. NUISANCES
SECTION:

5-1F-1: Public Nuisance
5-1 F-2: Nuisance Declared
5-1F-3: Notice Of Nuisance
5-1 F-4: Corn plaint
5-1F-5: Removal Of Nuisance
5-1F-6: Injunctions

5-1 F-1: PUBLIC NUISANCE: It is unlawful to commit public nuisance. Public nuisance consists of knowingly creating, performing or maintaining anything affecting any number of citizens without lawful authority which is either: injurious to public health, safety, morals or welfare, or interferes with the exercise and enjoyment of public rights including the right to use public property. (Ord. 1984-20, 12-18-1984)

5-1 F-2: NUISANCE DECLARED: In the interest of the inhabitants of the City, it is necessary to prohibit the accumulation of junk, trash and refuse on property within the corporate limits of the City by declaring such accumulation a nuisance. The following are hereby declared to be a public nuisance:

A. Unoccupied Premises: It shall be unlawful for any reason for any person to sweep, place or throw, solid waste or other waste materials in or upon any sidewalk, street, alley or unoccupied premises. (Ord. 1984-20, 12-18-1984)

B. Unsanitary Premises: It shall be unlawful for any person to permit or cause to remain in or about his premises any solid waste, weeds, motor vehicles not in operating condition, waste water or any conglomeration of residue thereof, which emits odors or serves as a

feeding or breeding place for flies, insects or rodents; and which in the opinion of the code enforcement officer is unsanitary, or injurious to public health. The accumulation of building materials, pipes, lumber or boxes may be maintained on said premises if said accumulation is evenly piled and stacked for a reasonable length of time to be determined by the code enforcement officer. (Ord. 1984-20, 12-18-1984; amd. 2000 Code)

C. Hazardous Premises: It shall be unlawful for any person to permit in or about his premises weeds, briars, brush or any other solid waste to become in any way hazardous or injurious to public health or to obstruct pedestrian and vehicular traffic.

D. Solid Waste:

1. Accumulation:

a. It shall be unlawful for any person to allow any solid waste to accumulate upon premises, owned, leased, rented or occupied by him during intervals between collection thereof, except in the manner herein provided.

b. It shall be unlawful to deposit any solid waste in or upon the streets, alleys, sidewalks, gutters, curbing, storm sewers, parkways or vacant lots within the City, except in the manner and in the receptacles or container as provided in subsection D2 of this Section.

2. Solid Waste Receptacles: All solid waste receptacles shall be maintained in a clean and sanitary condition by the owner or person using the receptacle and such receptacles shall be located only in such places as shall be readily accessible for removing and emptying the same, but shall not be placed in such place or position as may constitute a nuisance or obstruction to vehicular or

pedestrian traffic.
E. Outdoor Vehicle Storage:
1. Definitions: As used in this subsection the following terms shall have the following meanings:
DISMANTLED OR PARTIALLY DISMANTLED Any motor vehicle from which some part or parts which are ordinarily a component thereof have been removed or are missing. VEHICLE:

INOPERATIVE OR INOPERABLE MOTOR VEHICLE:
MOTOR VEHICLE:
Any motor vehicle which by reason of dismantling, disrepair or other cause is incapable of being propelled under its own power.
Any wheeled vehicle which is self-propelled or intended to be self-propelled.
2. Prohibition: It is unlawful for any person to store on, place on, or permit to be stored or placed on, or allowed to remain on any occupied or unoccupied land within the City limits, a dismantled, partially dismantled or inoperative motor vehicle, or any parts of a motor vehicle, except in areas where such activity is within the contemplated purposes of duly licensed businesses and are kept in a wholly enclosed garage or structure.
3. Exceptions: Any person, being owner or tenant, may store, permit to be stored or allow to remain upon his premises, any dismantled, partially dismantled or inoperative motor vehicle, or parts thereof, for a period not to exceed one week if such motor vehicle is registered in his name; and provided further that any such owner or tenant may, in the event of hardship, secure permission from the City to extend such period of time.
4. Additional Provisions: This subsection shall be construed as being supplementary to any sections of this Chapter relating to rubbish, litter, refuse, and shall not be construed to permit the parking or placing of dismantled, partially dismantled or inoperable motor vehicles on any public street. (Ord. 1984-20, 12-18-1984)
5-1 F-3: NOTICE OF NUISANCE: The Code Enforcement Officer or designee, upon observing any violation of this Article, shall issue a notice directed to the owner of record of the property on which the nuisance occurs, or to the occupant or tenant of the property, or both. The notice shall describe the violation and shall establish a reasonable time limit for abatement thereof by the owner or occupant or tenants, which limit shall be not less than two (2) days or more than thirty (30) days after service of the notice. The notice may be served either personally or by registered mail at the owner's or occupant's last known address. (Ord. 1984-20, 12-18-1984; amd. 2000 Code)

5-1 F-4: COMPLAINT: In the event the owner or occupant of the property where the nuisance violation of this Article exists, has failed, within the prescribed time, to abate the nuisance, then the Code Enforcement Officer or designee shall file a complaint charging violation of this Article with the Municipal Court demanding that the owner of the property, or the occupant thereof, or both, be held to answer to the Court for the violation of this Article. (Ord. 1984-20, 12-18-1984)
5-1F-5: REMOVAL OF NUISANCE: In the event that a person is convicted of violating this Article and still refuses to remove the junk, trash or refuse, the City may enforce this Section in any manner consistent with law. Should the person refuse or fail to pay the assessment, the City shall collect such assessment as provided by law. (Ord. 1984-20, 12-18-1984)

5-1F-6: INJUNCTIONS: The Chief of Police, when a nuisance exists as set forth in this Article, may maintain a complaint in the name of the City, perpetually, to enjoin all persons from maintaining or permitting the nuisance and to abate the same. (Ord. 1984-20, 12-18-1984)
City of Sunland Park

CHAPTER 2

ANIMAL CONTROL

SECTION:

5-2- 1: Short Title
5-2- 2: Authority, Purpose, And Goals
5-2- 3: Definitions
5-2- 4: Joint Agreement With Animal Humane Society
5-2- 5: Animal Control Officer
5-2- 6: Animal Control Authority
5-2- 7: Animals To Be Personal Property
5-2- 8: Animals Running At Large
5-2- 9: Animal Fighting Prohibited
5-2-10: Disturbing Peace: Prohibited; Nuisance
5-2-11: Impounding Strays; Procedure
5-2-12: Livestock, Other Animals
5-2-13: Licensing And Vaccinations Required
5-2-14: Rabid Animals
5-2-15: Vicious Or Dangerous Animals
5-2-16: Destruction Of Animals
5-2-17: Housing Of Animals
5-2-18: Wild Animals
5-2-19: Service Animals Allowed In Public Places
5-2-20: Restraint Of Animals
5-2-21: Penning Female Animals
5-2-22: Prohibited Acts And Conditions
5-2-23: Cruelty To Animals Prohibited
5-2-24: Permitted Premises
5-2-25: Violation Penalty

5-2-1: **SHORT TITLE:** This chapter may be cited as the "Animal Control Ordinance of the City of Sunland Park". (Ord. 2006-06, 4-18-2006)

5-2-2: AUTHORITY, PURPOSE AND GOALS:

A. Authority: This chapter is adopted pursuant to the enabling provisions of Section 3-17-1 and Section 3-18-3, NMSA, 1978, as amended.

B. Purpose: The purpose of this chapter is to establish regulations and general guidelines for the ownership, control, registration, licensing, housing, vaccination, health, safety and care of animals, the impounding and disposition of animals running at large, and the prevention of cruelty to animals.

C. Goals: The goals of this chapter are to:

1. Protect the citizens of the city and their property;

2. Regulate, restrain and prohibit the running at large of any animal within the boundary of the city;

3. Regulate the ownership, control, registration, and licensing of animals;

4. Encourage the vaccination of all animals;

5. Protect the health and safety of animals;

6. Reduce animal nuisances;

7. Provide for the control of dangerous or vicious animals; and

8. Prohibit the cruelty to animals. (Ord. 2006-06, 4-18-2006)

5-2-3: **DEFINITIONS:** The following words, terms, phrases, and their derivations shall have the following meanings:

ABANDONED:	Where an owner has relinquished all right, title, claim and possession of an animal with the intent of not reclaiming it or resuming its ownership, possession or enjoyment.
ADOPTION:	To take possession by choice and assume responsibility for proper care and keeping of an animal in accordance with this chapter.
ANIMAL:	A dog, cat, poultry, bird, reptile, insect, arachnid, fish or any other vertebrate, excluding the human species and those animals under the jurisdiction of the New Mexico Department of Game and Fish.
ANIMAL CONTROL CENTER OR ANIMAL CONTROL SHELTER:	Any establishment or facility authorized by the City of Sunland Park, New Mexico, for the care and custody of impounded animals.
ANIMAL CONTROL OFFICER:	The person(s) appointed by the mayor pursuant to section 5-2-5 of this chapter to assume and carry out the powers, authority, duties and responsibilities delegated to him or her by the governing body of the City of Sunland Park, New Mexico, in section 5-2-6 of this chapter.

APIARY OPERATION:	The conduction of any activity where bees are raised or kept for their honey or pollination.
ARACHNID:	Any of the various eight-legged arthropods, such as, but not limited to, spiders, scorpions, mites and ticks.
ARACHNID OPERATION:	The conduction of any activity where arachnids are raised or kept.
ASTRAY:	Any animal which shall be off and away from its home unattended and running at large within the city.
BITE:	Any puncture or tear of the skin inflicted by the teeth of an animal.
CITY:	The land area within the boundaries of the City of Sunland Park, New Mexico, as may be extended by future annexations from time to time, including privately owned land and city, state and federal owned land.
CONFINEMENT:	The restriction of movement of an animal to the premises of its owner, or to the premises of one charged with the care and control of the animal.
COUNCIL:	The governing body of the City of Sunland Park, New Mexico.
COUNTY:	The County of Dona Ana, New Mexico.
GUARD DOG:	A dog that is used to defend, patrol, secure, or protect property or persons.
HOBBY BREEDER:	A small-scale dog or cat breeder who owns no more than three (3) breeding female dogs or cats (older than six (6) months), that are registered with a recognized registry organization or association.
IMPOUNDMENT:	The taking into custody of a stray, vicious animal or an animal alleged to be vicious, by an animal control officer, municipal police officer, or duly authorized designee, and the detention of the animal in the animal control center.
IN SEASON OR IN HEAT:	A period of time during which a female animal is capable of being impregnated or conceiving.

INSECT:	Any of a class of usually winged invertebrate animals, such as, but not limited to, flies, beetles, moths, bees, wasps, butterflies, grasshoppers, lice, and flees, having three (3) pair of legs and a three-segmented body.
INSECT OPERATION:	The conduction of any activity where insects are raised or kept.
KENNEL:	Any person, joint venture, partnership, limited liability company, corporation or other business entity that is engaged in the maintenance and shelter of animals not their own for profit, or that is engaged in breeding and sale of animals for profit.
LEASH:	A chain, strap or cord of sufficient substance to hold under control the animal attached thereto and shall be no longer than eight (8) feet.
LIVESTOCK:	Horses, cattle, pigs, sheep, goats, rabbits and/or poultry.
MUNICIPAL POLICE:	The police department of the City of Sunland Park, New Mexico.
NUISANCE:	Means, but is not limited to, defecation, urination, disturbing the peace, emitting noxious or offensive odors, or otherwise endangering or offending the well-being of the inhabitants of the City of Sunland Park, New Mexico.
OWNER:	A person who owns, possesses, harbors, keeps, or has custody or control, or knowingly causes or knowingly permits an animal to be harbored or kept or has an animal in his or her care, or who permits an animal to remain on or about his or her premises.
PETSHOP:	Any person, joint venture, partnership, limited liability company, corporation or other business entity that is engaged in the buying and selling or grooming of animals for profit.
PREMISES:	A parcel of land and the structures thereon.
REPTILE:	Any of various cold-blooded, egg-laying vertebrates, such as, but not limited to, snakes,

	crocodiles, lizards, frogs, turtles, iguanas, gekos, salamanders, newts, and toads.
RUN OR RUNNING AT LARGE:	To be free of physical restraints and go beyond the boundaries of the premises of the owner.
SERVICE ANIMAL:	An animal which has been trained by a recognized service animal trainer to assist a blind person, a hearing impaired person, or a mobility impaired person. The term shall also include an animal that is deemed necessary by a physician licensed to practice medicine in the State of New Mexico. The term shall also include an animal which has been trained and used by law enforcement for legitimate law enforcement purposes.
VETERINARIAN:	A person with a doctor of veterinary medicine degree licensed to practice in the State of New Mexico.
VICIOUS OR DANGEROUS ANIMAL:	Any of the following: A. Any animal which kills or severely injures (so as to result in muscle tears or disfiguring, laceration, require multiple sutures, corrective or cosmetic surgery) a person or domesticated animal within the city. It does not include an animal which bites, injures, attacks or attempts to attack any person or animal, which is unlawfully or without permission upon its owner's or keeper's premises or which is provoked to attack or attempt to attack; B. Any animal which, when unprovoked, engages in behavior that requires a defensive action by a person to prevent bodily injury to a person or domesticated animal within the city when the person and the domesticated animal are off the owner's or keeper's property; or C. Any animal which, because of its poisonous bite or sting, would constitute a significant hazard to persons or domesticated animals within the city. D. No animal which bites, injures, attacks, or attempts to attack any person or animal, which is unlawfully or without permission upon its

owner's or keeper's premises, or which is provoked to attack or attempt to attack, or which is responding to pain or injury, protecting itself or its offspring, or protecting or defending a human being, shall be deemed a vicious animal.

WILD ANIMAL: Any of the various warm- or cold-blooded vertebrates, insects, or arachnids living in a natural state, not domesticated, bred or raised, including exotic species. (Ord. 2006-06, 4-18-2006)

5-2-4: **JOINT AGREEMENT WITH ANIMAL HUMANE SOCIETY:** The mayor is authorized, with the consent of the governing body, to execute on behalf of the city a joint powers agreement for animal control services with the animal humane society or an equivalent organization so as to accomplish the purposes of this chapter. (Ord. 2006-06, 4-18-2006)

5-2-5: **ANIMAL CONTROL OFFICER:** The governing body of the city shall delegate the powers, authority, duties and responsibilities set out in section 5-2-6 to the animal control officer, municipal police, or any duly authorized designee appointed by the mayor, with the consent of the governing body, to protect the citizens of the city and their property. (Ord. 2006-06, 4-18-2006)

5-2-6: **ANIMAL CONTROL AUTHORITY:**

A. Authority Granted To The Animal Control Officer, Municipal Police, Or Duly Authorized Designee:

1. Duty To Protect The Health And Safety Of The Public: The animal control officer, municipal police, or duly authorized designee shall be concerned with the health and safety of the citizens of the city as affected by animals and to protect the citizens of the city and their property.

2. Methods Authorized: The animal control officer, municipal police, or duly authorized designee shall be authorized to use such methods, means and equipment as are reasonably necessary to bring strays and other animals under control and to enforce the provisions of this chapter.

3. Entry On Premises Authorized: For the purposes of discharging his or her duties imposed by this chapter, the animal control officer, municipal police, or duly authorized designee shall be authorized to enter upon any manned premises if he or she has reasonable cause to believe a violation of this chapter has been committed; or if any provisions of this chapter or any of the laws of the State of New Mexico relating to the care, treatment, control and prevention of cruelty to animals has been or are being violated.

4. Entry On Private Land With A Search Warrant: If, however, the owner or occupant of any dwelling or premises objects to inspection, as stated in this section, a search warrant for the inspection of the dwelling and premises shall be obtained and presented by the animal control officer, municipal police, or duly authorized designee. A search warrant will be obtained from the municipal court prior to inspection, when permission is denied.

B. Authority Of The Animal Control Officer, Municipal Police, Or Duly Authorized Designee To Enter Private Land Without A Search Warrant:

1. Entry On Private Land Without A Search Warrant: For the purpose of discharging his or her duties imposed by this chapter, the animal control officer, municipal police, or duly authorized designee shall be authorized and it is declared to be their duty to enter upon private land without a search warrant for the purpose of fresh pursuit or for impounding of any animal found running at large. (Ord. 2006-06, 4-18-2006)

5-2-7: **ANIMALS TO BE PERSONAL PROPERTY:** Dogs, cats and other animals shall be declared, deemed and considered personal property of the owner thereof, and all remedies given for the recovery of personal property and of damages for injuries thereto shall be extended to the owners thereof. (Ord. 2006-06, 4-18-2006)

5-2-8: **ANIMALS RUNNING AT LARGE:**

A. Duty To Keep Animal On Owner's Premises Or Leashed: Any person owning or having charge or control of any animal shall keep such animal on his or her premises. No animal shall be running at large or unleashed on any street, alley, side walk, vacant lot, public property (including public parks), or non-enclosed space on private property not that of the owner of the animal.

B. Animals Running At Large Declared Nuisance And Menace To Public Health And Safety: Any animal found running at large in violation of this section is declared to be a nuisance, a menace to the public health and safety, and, if observed by the animal control officer, municipal police, or duly authorized designee shall be taken up and impounded. Cats are not required to be leashed but shall be required to remain confined within the owner's premises.

C. Unlawful To Chain Or Stake An Animal On Unenclosed Premises: It is unlawful for any person to chain or stake any animal on any unenclosed premises in such a manner that such animal may go beyond the property line. (Ord. 2006-06, 4-18-2006)

5-2-9: **ANIMAL FIGHTING PROHIBITED:** It is unlawful for any person to promote, stage, hold, conduct, carry on, or attend any game, exhibition, or fight in which one (1) or more animals is engaged for the purpose of injuring,

killing, maiming or destroying themselves or any other animal, or to train or breed any animals for such purpose, and/or to promote any of the activities in this section. (Ord. 2006-06, 4-18-2006)

5-2-10: **DISTURBING PEACE: PROHIBITED; NUISANCE:**

A. Animal Nuisance Prohibited: Any animal that habitually or continuously barks, howls or otherwise disturbs the peace of the inhabitants of the city, or is kept or maintained in such a manner or in such numbers as to disturb by noxious or offensive odors or otherwise endanger the health and welfare of the inhabitants of the city are declared to be an animal nuisance and shall be prohibited. Complaints filed pursuant to this Section may be filed in writing with the animal control officer, municipal police, or duly authorized designee and shall include the name of the complainant and the name and address of the person(s) permitting the nuisance to occur and to continue.

B. Total Number Of Dogs And Cats Permitted: A person or household shall own, harbor, or keep no more than the total number of dogs and cats over the age of six (6) months permitted in the following schedule based on total acreage owned:

Total Number of Dogs and Cats (in any combination thereof)	Acreage
three (3) dogs or three (3) cats	one-half (½) acre or less
four (4) dogs or four (4) cats	more than one-half (½) acre up to one (1) acre
five (5) dogs or five (5) cats	more than one (1) acre up to two (2) acres
six (6) dogs or six (6) cats	more than two (2) acres

If a person or household desires to own more than the total number of dogs and cats permitted immediately above, such person or household must first qualify as a kennel, guard dog operation, or hobby breeder operation as defined in this chapter and obtain from the city a permit in accordance with section 5-2-24 of this chapter to operate a kennel, guard dog operation or hobby breeder operation and be subject to the regulations thereof and the regulations set out in title 3 and title 10 of this code.

C. Private Criminal Complaints: Private criminal complaints may be filed in municipal court by citizens affected by any animal that may be determined a nuisance under subsection A. above. All complaints filed pursuant to this section shall be in writing, stating the name and address of the complainant and the person(s) permitting the nuisance to occur and to continue. (Ord. 2006-06, 4-18-2006)

5-2-11: **IMPOUNDING STRAYS; PROCEDURE:**

A. Duty To Impound: It is declared to be the duty of the animal control officer, municipal police, or duly authorized designee to take up and impound or cause to be impounded any astray animals found in the city.

B. Astray Animals Displaying License Or Other Identification: If the astray animal is wearing a license or bears other visual identification, the animal control officer, municipal police or duly authorized designee will attempt to notify the owner or his or her agent or representative of the animals impoundment. If after one (1) business day the owner or his or her agent or representative has not claimed the animal, the animal may be adopted, sold or euthanized in a humane manner in that order of priority while in the physical possession of the animal control officer, municipal police, or duly authorized designee.

C. Astray Animals Not Displaying License Or Other Identification: If the astray animal is not wearing a license or other visual identification, and after one (1) business day no one has appeared to claim the animal, the animal may be adopted, sold or euthanized in a humane manner in that order of priority while in the physical possession of the animal control officer, municipal police, or duly authorized designee.

D. City Not Liable For Disposition Of Unclaimed Animal After Notification: If the animal control officer, municipal police, or duly authorized designee notified the owner or his or her agent or representative of the impoundment of the owner's animal and if the owner or his or her agent or representative has not appeared to claim the animal after one (1) business day, as specified in this section, then the city or its duly authorized agents and representatives shall not be held liable to the owner of the animal for the adoption, sale or euthanization of the impounded animal.

E. City Not Liable For Disposition Of Unclaimed Animal Where Notification Not Possible: If the animal control officer, municipal police, or duly authorized designee is unable to notify the owner because the animal does not have a license or other visual identification and the animal is not claimed within one (1) business day, then the city or its duly authorized agents and representatives shall not be held liable to the owner of the animal for the adoption, sale or euthanization of the impounded animal.

F. Claiming Of Astray Animal: The astray animal may be claimed from the pound by its owner or his or her agent or representative by payment to the city for the impounding fee, transportation fee, quarantine fee, microchip fee, and payment of the license fee for the current year (if the animal was unlicensed and a license is required), payment of vaccination charges (if necessary), and any medical expenses incurred by the impounding authority. The aforementioned fees shall be those established by city resolution, as may be amended from time to time. Any astray animal which is not claimed by its owner or his or her agent or representative within one (1) business day, as specified in this section, may be adopted by another person through the

animal humane society by payment to the city of the license fee for the current year (if the animal was unlicensed and a license is required), payment of vaccination charges (if necessary), and any medical expenses incurred by the impounding authority.

G. Records Maintained: The city shall maintain a record of all animals impounded for a reasonable period of time. The record shall contain at least the following information:

1. Description of the animal;

2. Manner, place and date of its acquisition;

3. Date and manner of its disposal;

4. Name, address, and phone number of person claiming the animal;

5. Copy of proof of identification of person claiming the animal (such as, but not limited to, copy of a valid driver's license, social security card, passport, utility bill);

6. All fees received; and

7. Medical expenses for the animal.

H. Public's Duty To Report Astray Animals: Any person finding any astray animal shall notify the animal control officer, municipal police, or duly authorized designee as soon as possible, and shall surrender the astray animal to the animal control officer, municipal police, or duly authorized designee upon demand. (Ord. 2006-06, 4-18-2006)

5-2-12: **LIVESTOCK, OTHER ANIMALS:**

A. Prohibition: It is unlawful for any person to permit livestock or other animals to stray, wander or graze upon or along any traveled portion of any highway or public way normally used by motor vehicles.

B. Owners Or Custodians Responsible: Owners or custodians of livestock or other animals shall be guilty of a misdemeanor, punishable by a penalty as provided in section 5-2-25 of this chapter, upon conviction for violation of this section.

C. Keeping Of Livestock And Other Farm Animals: The owning, possessing, keeping or harboring of livestock and other farm animals shall also be regulated by title 10 of this code. Nothing in this section shall be construed to prohibit the owning, possessing, keeping or harboring of livestock and other farm animals as prescribed or allowed in title 10 of this code unless the

livestock or other farm animals are declared or determined to be a nuisance or vicious or dangerous under the provisions of this chapter. (Ord. 2006-06, 4-18-2006)

5-2-13: **LICENSING AND VACCINATIONS REQUIRED:**

A. Vaccinations: All dogs and cats shall be vaccinated as required by state law. It shall be the responsibility of the owner to comply with the regulations prescribed by the New Mexico Department of Health. Dogs and cats over the age of four (4) months must be vaccinated against rabies and so tagged by a licensed veterinarian. Upon demand by the animal control officer, municipal police, or duly authorized designee, the owner or his or her agent or representative must present evidence or certificate of vaccination for dogs and cats owned by him or her.

B. Licensing: Any person harboring or maintaining any dog or cat over the age of six (6) months shall obtain a license for each such dog or cat. Persons who are visiting or temporarily remaining within the city for less than thirty (30) consecutive days shall be exempt from this licensing requirement. Licenses may be issued only by the animal control officer, municipal police, or duly authorized designee. Licenses shall expire one (1) year after the date of issuance of the license. The animal control officer, municipal police, or duly authorized designee shall keep a record of all licenses issued. A current rabies vaccination certificate shall be presented at the time of application for the license.

1. Affixing Tags: A current license tag number shall be affixed to the licensed dog or cat at all times in a reasonable manner.

2. Fees: The annual license fee shall be three dollars ($3.00) for each neutered or spayed dog or cat, and ten dollars ($10.00) for each unspayed or unneutered dog or cat. Any person seeking to obtain a license for a neutered or spayed dog or cat shall furnish written proof from a licensed veterinarian that such dog or cat has been neutered or spayed. In the event a tag is lost, a replacement tag shall be obtained for a charge of one dollar ($1.00). Each kennel or petshop with ten (10) dogs or more in possession shall pay an annual fee of fifty dollars ($50.00) in lieu of licensing individual dogs, and such fee will cover all dogs kept by such business during the year.

3. Breeder Fees: The owner who intentionally or unintentionally breeds dogs or cats must have a current hobby breeder's license or shall pay a litter fee of twenty-five dollars ($25.00) for each litter. The twenty-five dollar ($25.00) fee may be refunded at the time proof of sterilization of the female dog or cat is submitted and verified by the animal control officer, municipal police, or duly authorized designee but no later than two (2) months from the time the female dog or cat delivers a litter. Each hobby breeder shall pay an annual fee of fifty dollars ($50.00) in lieu of fees for individual litters, and such fee will cover all litters during the calendar year. An owner shall not advertise,

sell, barter, exchange, or give away any dogs or cats within the city boundaries unless the litter fee is displayed legibly. An owner shall furnish the litter fee or hobby breeder permit number to any prospective recipient requesting the number. Each hobby breeder shall be subject to the regulations of this chapter and the regulations set out in title 3 and title 10 of this code. (Ord. 2006-06, 4-18-2006)

5-2-14: **RABID ANIMALS:**

A. Reporting Animals Showing Symptoms Of Rabies: It is unlawful to keep any unvaccinated dog, cat, ferret or any animal which has shown any symptom of rabies. Animals showing symptoms of rabies shall be reported to the animal control officer, municipal police, or duly authorized designee who shall then impound and confine the animal and send a sample for testing to determine whether the animal is infected with rabies. If the test results show that the animal is infected with rabies, the animal shall be destroyed. If the animal has been determined not to be infected with rabies, the animal shall be returned to its owner or his or her agent or representative. However, if the animal has been determined not to be infected with rabies but has bitten a human being, a determination of whether the animal is vicious shall be conducted in accordance with section 5-2-15 of this chapter. If the animal is determined not to be vicious, the animal shall be returned to its owner or his or her agent or representative. If the animal dies during the confinement period, all necessary laboratory inspections will be conducted by the district health officer.

B. Interference With Officers: It shall be unlawful for any person to interfere with the animal control officer, municipal police, or duly authorized designee in the execution of the provisions of this section. (Ord. 2006-06, 4-18-2006)

5-2-15: **VICIOUS OR DANGEROUS ANIMALS:**

A. Definition: A vicious or dangerous animal is one as defined in section 5-2-3 of this chapter.

B. Determination Of Viciousness: The municipal court shall conduct a hearing to determine if the animal is vicious or dangerous as defined in section 5-2-3 of this chapter. If the court determines, by clear and convincing evidence, that the animal is vicious or dangerous, the court may impose a fine or imprisonment or both of the owner of the animal and shall order the animal destroyed in accordance with section 5-2-16 of this chapter.

C. Owning Or Keeping Vicious Animals Prohibited: It shall be unlawful for any person to own, keep, or harbor a vicious, dangerous, or ferocious animal in the city.

D. Keeping Of Animals Or Trained Animals Liable To Attack And Injure Human Beings Or Other Animals Prohibited Unless Securely Kept: It shall be unlawful

for any person to keep any animal or any trained animal liable to attack and injure human beings or other animals, unless such animals are securely kept so as to prevent injury to any persons or other animals. This section shall not apply to animals that are used by law enforcement for legitimate law enforcement purposes.

E. Repelling Attack By Animal: Any attack by any animal may be repelled by the use of reasonable force. (Ord. 2006-06, 4-18-2006)

5-2-16: **DESTRUCTION OF ANIMALS:**

A. Request To Destroy Or Turn Over Vicious Or Dangerous Animal: The animal control officer, municipal police, or duly authorized designee may request the owner or keeper of a vicious or dangerous animal to destroy it humanely or turn such animal over to the animal control officer, municipal police, or duly authorized designee for humane destruction.

B. Failure Or Refusal To Destroy Or Turn Over Vicious Or Dangerous Animal: Should the owner or keeper of the vicious or dangerous animal fail or refuse to humanely destroy or turn the animal over to the animal control officer, municipal police, or duly authorized designee, the animal control officer, municipal police, or duly authorized designee shall cause a complaint to be brought in municipal court against such owner or keeper for failure or refusal to humanely destroy or turn the vicious or dangerous animal over.

C. Animals Wounding, Injuring, Or Killing Livestock Or Other Animals In The Presence Of The Animal Control Officer, Municipal Police, Or Duly Authorized Designee: The animal control officer, municipal police, or duly authorized designee shall have the authority to destroy an animal if it is in the act of wounding, injuring, or killing livestock or other animals or in the act of attacking a human being. There shall be no liability on the animal control officer, municipal police, or duly authorized designee in damages or otherwise for such destruction.

D. Animals Wounding, Injuring, Or Killing Livestock Or Other Animals Not In The Presence Of The Animal Control, Municipal Police, Or Duly Authorized Designee:

1. Any person having knowledge that an animal has wounded, injured, or killed livestock or other animals shall report this to the animal control officer, municipal police, or duly authorized designee. Upon receiving such report or notice, the animal control officer, municipal police, or duly authorized designee having reason to believe that the animal did wound, injure, or kill livestock or other animals shall impound such animal. A complaint shall then be filed with the municipal court and a hearing shall then be had within a reasonable period of time to determine whether the animal did wound, injure, or kill livestock or other animals.

2. Should the municipal court find that the animal in question did wound, injure, or kill livestock or other animals, it shall order the animal control officer, municipal police, or duly authorized designee to have the animal destroyed in a humane manner.

E. Destruction Of Dogs Or Cats Running In Packs: The animal control officer, municipal police, or duly authorized designee shall be authorized to destroy in a humane manner any astray dogs or cats within the city, which are running in packs and who are potentially dangerous to humans, livestock, or other animals, as reasonably determined by the animal control officer, municipal police, or duly authorized designee. (Ord. 2006-06, 4-18-2006)

5-2-17: **HOUSING OF ANIMALS:** Housing facilities for animals shall be structurally sound and constructed of nontoxic materials. Interior floors shall be smooth and easily cleanable and impervious to water. The premises shall be kept clean, sanitary and in good repair in a manner which will protect the animals from overcrowding, disease, and injury. Animals shall be provided the adequate space to allow each animal to turn about freely, to stand, sit, and lie in a comfortable normal position, and to walk in a normal manner. Outside housing shall protect the animal from weather conditions (such as sunlight, rain, snow or cold or hot weather) that may be detrimental to the health of the animals. Animals maintained in pens, cages, or runs for periods exceeding twenty-four (24) hours must be provided with adequate space for exercise for the comfort and health of the animal. Sufficient lighting shall be provided by either natural or artificial means. Disposal facilities shall be provided and operated so as to minimize vermin infestation, odors, and disease hazards. Animals shall be provided with sufficient fresh, clean and wholesome food and water. Food and water containers must be kept clean. Every animal kept in a kennel must be observed daily and diseased or injured animals shall be provided with care from a licensed veterinarian. This section shall apply to all owners or keepers of animals in the city, including the general public, kennels, guard dog operations, and hobby breeder operations. (Ord. 2006-06, 4-18-2006)

5-2-18: **WILD ANIMALS:** No person shall keep, harbor or maintain any poisonous reptiles, dangerous carnivorous wild animals, or dangerous or poisonous insects or arachnids whether they are trained or not, without having first registering such reptiles, insects, arachnids, or other animals with the animal control officer, municipal police and duly authorized designee. (Ord. 2006-06, 4-18-2006)

5-2-19: **SERVICE ANIMALS ALLOWED IN PUBLIC PLACES:** It shall be unlawful for any person owning or maintaining any place or public accommodation, public entertainment or amusement, restaurant, hotel, hospital, swimming pool, store, theater, or who operates any public transportation facility to exclude therefrom any service animal as defined in section 5-2-3 of this chapter; provided, that such service animal be in the company of the person for whom it was trained to assist. (Ord. 2006-06, 4-18-2006)

5-2-20: **RESTRAINT OF ANIMALS:**

A. Penning On Premises: All persons owning or having charge, custody, care or control of any animal shall keep such animal properly and securely penned in his or her own premises.

B. Leashed Dogs: Dogs shall be permitted on the streets or public places of the city only if they are secured on a leash not over eight (8) feet in length, under the immediate physical control of the person having custody thereof. The determination of whether the dog is under the immediate physical control of a person having custody thereof shall be determined by the animal control officer, municipal police, or duly authorized designee, as to what he believes to be reasonable under the circumstances.

C. Animals Not Under Immediate Control: Any animal trespassing upon private or public premises shall be deemed prima facie not to be under the immediate control of a competent person and shall be reported for impounding to the animal control officer, municipal police, or duly authorized designee.

D. Dogs Not Allowed At City Sponsored Events: Dogs shall not be allowed at city sponsored events. This restriction shall not apply to service animals as defined in section 5-2-3 of this chapter or to animals which are authorized to participate in such events. (Ord. 2006-06, 4-18-2006)

5-2-21: **PENNING FEMALE ANIMALS:** The owner of a female animal shall cause such animal when in season or in heat to be penned or enclosed during such period of time in a house, building or secure enclosure so that other animals are not attracted to the animal in a manner that will preclude occurrence of a public nuisance, but not tied. Such enclosure shall be constructed so that no other animals may gain access to the confined animal, except for intentional breeding purposes. (Ord. 2006-06, 4-18-2006)

5-2-22: **PROHIBITED ACTS AND CONDITIONS:** It shall be unlawful for any person to hinder, resist, or oppose the animal control officer, municipal police, or duly authorized designee in the performance of his or her duties or to secret any animal from him or her that requires attention. (Ord. 2006-06, 4-18-2006)

5-2-23: **CRUELTY TO ANIMALS PROHIBITED:**

A. Killing Or Beating Animals Prohibited: It shall be unlawful for any person to willfully or maliciously kill, destroy, maim, disfigure, torture, beat with a stick, chain, club or other object, mutilate, burn, or scald with any substance, overdrive, or otherwise cruelly set upon any animal except that reasonable force may be employed to drive off vicious, dangerous, or trespassing animals. It shall be unlawful to poison dogs, cats other domesticated animals.

B. Overworking Animals Prohibited: It shall be unlawful for any person to drive to work any animal cruelly when such animal is unfit for labor.

C. Slaughtering Wild Animals Excepted: The slaughtering of animals for food or the killing of wild animals, such as authorized by law, shall not be a violation of this section.

D. Duty To Provide Food And Shelter: It shall be unlawful for any person to fail, refuse or neglect to provide any animal in his or her custody as owner or otherwise, with proper food, drink, shade, shelter, care, medical treatment or to carry any animal in or upon any vehicle in a cruel or inhumane manner, or to keep any animal under unsanitary or unhealthful conditions.

E. Animals Without Proper Care: Whenever the animal control officer, municipal police, or duly authorized designee finds that any animal is without proper care, because of injury, illness, confinement or voluntary absence of the owner or person responsible for the care of such animal, the animal control officer, municipal police, or duly authorized designee may impound such animal for protective care. In the event of sickness or injury of the animal, upon the advice of a licensed veterinarian, the animal control officer, municipal police, or duly authorized designee may take such action as called for to prevent undue pain and suffering, including immediate destruction of the animal.

F. Abandoning Of Animal Prohibited: It shall be unlawful for any person to abandon any animal in the city.

G. Discharging Firearms Or Fireworks At Any Animal Prohibited: It shall be unlawful for any person to fire any BB gun, firearm or firework in the vicinity of an animal unless used to repel an attack by an animal on a human being, livestock or other animal or unless otherwise permitted pursuant to section 5-2-16C. and E. of this chapter.

H. Animals On Unenclosed Premises: It shall be unlawful for any person to stake out, graze, or herd any animal upon any unenclosed private lot or parcel of land in a manner that such animal may be or go beyond the boundary of such lot or land.

I. Keeping Of Infected Or Painfully Crippled Animals: It shall be unlawful for any person to have, keep, or harbor any animal which is known or believed to be infected with a dangerous or communicable disease or is painfully crippled, wounded, or injured. All such animals shall be reported to the animal control officer, municipal police, or duly authorized designee who will make proper disposition of the animal. This Section shall not be construed to include veterinary hospitals in which animals are being treated. (Ord. 2006-06, 4-18-2006)

5-2-24: **PERMITTED PREMISES:**

A. Permit Required:

1. No person shall operate a kennel, guard dog operation, hobby breeder operation, apiary operation, arachnid operation, or insect operation without a valid permit issued by the animal control officer, municipal police, or duly authorized designee.

2. No person shall operate a kennel, guard dog operation or hobby breeder operation without also obtaining a valid business license issued by the city pursuant to title 3 of this code.

3. A minimum fine of one hundred dollars ($100.00) will be assessed for any violations.

B. Permit Applications: Persons who wish to apply for a permit shall file using forms provided by the animal control officer, municipal police, or duly authorized designee. The application shall require information sufficient to assure the animal control officer, municipal police, or duly authorized designee that the applicant and facilities are adequate, in compliance with section 5-2-17 of this chapter, to care for the animals in a manner that protects the public and the animals and located in an area zoned by the city for such proposed use or facilities in compliance with the regulations set out in title 10 of this code.

C. Permit Requirement: No permit is transferable from one person or place to another person or place. A valid permit shall be posted in a conspicuous place at each permitted premise. A permit holder shall notify the animal control officer, municipal police, or duly authorized designee of any changes in operations which may affect the status of the permit and shall keep the animal control officer, municipal police, or duly authorized designee informed of any changes in name, address, home and business telephone numbers. Both the person in charge of the permitted premises and the owner of the permitted premises shall be responsible for complying with this Section. At each permitted premises a current record shall be kept which describes all animals owned, purchased or received, after the date of issuance of the permit. An application for renewal, accompanied by a current certificate of inspection issued by the animal control officer, municipal police, or duly authorized designee shall be filed with the animal control officer, municipal police, or duly authorized designee at least thirty (30) days but no more than sixty (60) days before the date of expiration. Failure to renew the permit as specified shall result in the expiration of the permit, or in the assessment of a late fee of ten dollars ($10.00) for each day in violation after the date of expiration in addition to the cost of renewing the permit.

D. Facilities And Care Applicable To Kennels, Guard Dog Operations, Hobby Breeder Operations, Arachnid Operations, And Insect Operations: Housing facilities for animals applicable to kennels, guard dog operations, hobby

breeder operations, arachnid operations, or insect operations shall be constructed, repaired and maintained in compliance with section 5-2-17 of this chapter and title 9 of this code.

E. Access To Permitted Premises: The animal control officer, municipal police, or duly authorized designee shall be allowed to enter the premises, following notification to the permit holder or applicant for the purpose of inspection prior to issuance of permit, renewal of permit, or for investigation of a complaint.

F. Suspensions And Revocations Of Permits: When the animal control officer, municipal police, or duly authorized designee discovers that a permitted premises is in violation of this section or title 3, title 9, or title 10 of this code, he or she shall give written notice of this violation to the permit holder, operator, owner or person in charge by means of an inspection report or other written notice. The notification shall state that failure to comply with the provisions of this section may result in immediate suspension or revocation of the permit. Permits may be suspended for thirty (30) days to allow the permit holder to comply with the requirements of this Section or other applicable laws, ordinances, or regulations. A permit shall be surrendered to the animal control officer, municipal police, or duly authorized designee upon suspension or revocation. A person whose permit has been suspended may apply for an inspection of the premises for the purpose of reinstating the permit by filing an additional application for a permit on a form required by the animal control officer, municipal police, or duly authorized designee. Within five (5) business days after the application is received by the animal control officer, municipal police, or duly authorized designee, he or she shall conduct an inspection of the premises proposed to be permitted or re-permitted. If the applicant and the site are in compliance with the all the applicable requirements of this section and all other applicable laws, regulations, and ordinances, the permit shall be reinstated.

G. Guard Dog Operation: A person who wishes to conduct a guard dog operation or business shall first obtain a guard dog permit in accordance with this section and shall be subject to any and all other requirements therein applicable. In addition to the facilities and care standard requirements of permitted premises set forth in this section, the area where the guard dog is housed, while not on duty, shall be secured in a manner which will prevent their escape. The off-duty housing area shall be kept locked when not in use. Premises where guard dogs are on duty or in use shall be posted with warning signs at least twelve (12) inches long on each side. The warning sign shall state "Guard Dog" or "Guardian" and shall show a picture of an aggressive dog. The warning signs shall be posted not more than two hundred (200) feet apart on the exterior of the fences or walls surrounding the site where such guard dogs are on duty or in use, and shall be posted at the exteriors corners of said site and every entrance of said site.

H. Apiary Operations, Arachnid Operations, And/Or Insect Operations: A person who wishes to conduct an apiary operation, arachnid operation, and/or insect operation or business shall first obtain a permit from the animal control officer,

municipal police, or duly authorized designee. To qualify for such a permit, the person must demonstrate in the form of certification, training, or education to the animal control officer, municipal police, or duly authorized designee that such person or his or her agents or representatives have the requisite or necessary knowledge, skill, or experience for the identification and handling or controlling of such animals.

I. Exceptions To Permitted Premises: The following are not required to obtain a permit under this section but shall remain subject to the regulations set out in title 3, title 9, and title 10 of this code:

1. A veterinarian hospital or clinic operated by a licensed veterinarian.

2. A bona fide research institution, using animals for research.

3. A publicly owned animal control center or shelter. (Ord. 2006-06, 4-18-2006)

5-2-25: **VIOLATION PENALTY:**

A. Any person who shall violate any provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than five hundred dollars ($500.00) or imprisonment for not more than ninety (90) days or both. Each day of a violation shall be considered a separate offense.

B. Citations may be issued to the custodian or owner of the animal in violation. The impounding fee shall be twenty-five dollars ($25.00) for the first impoundment within a twelve (12) month period, fifty dollars ($50.00) upon a second impoundment within the same twelve (12) month period, seventy-five dollars ($75.00) upon the third impoundment within the same twelve (12) month period, and three hundred dollars ($300.00) upon every impoundment after the third impoundment within the same twelve (12) month period. The fee for an animal with no license tag shall be ten dollars ($10.00).

C. It shall be the duty of any person who is the owner or the keeper of any vicious or dangerous animal, the keeping of which is unlawful, to cause such animal to be destroyed in accordance with section 5-2-16 of this chapter. Failure to comply with this section shall subject such owner or keeper to a minimum fine of ten dollars ($10.00) plus costs. Each day's failure to comply shall be considered a separate offense. (Ord. 2006-06, 4-18-2006)

CHAPTER 3

FAIR HOUSING

SECTION:

5-3-1: Policy
5-3-2: Definitions
5-3-3: Unlawful Practice
5-3-4: Discrimination in the Sale or Rental of Housing
5-3-5: Discrimination in Residential Real Estate-Related Transactions
5-3-6: Discrimination in the Provision of Brokerage Services
5-3-7: Exemption
5-3-8: Administration
5-3-9: Education and Conciliation
5-3-10: Enforcement
5-3-11: Investigations/Subpoenas/Giving of Evidence
5-3-12: Enforcement by Private Persons
5-3-13: Interference, Coercion or Intimidation
5-3-14: Separability of Provisions
5-3-15: Prevention of Intimidation in Fair Housing Cases

5-3-1: **POLICY:** It is the policy of the City of Sunland Park to provide, within constitutional limitations, for fair housing throughout Sunland Park, New Mexico. (Ord. 2010-08, 7-7-2010)

5-3-2: **DEFINITIONS:**

AGGRIEVED PERSON: Includes any person who:

A. Claims to have been injured by a discriminatory housing practice; or

B. Believes that they will be injured by a discriminatory housing practice that is about to occur.

CHIEF ELECTED OFFICIAL: The person who holds the highest elected position pf the local unit of government and who is signatory to the Small Cities Community Development Block Grant agreement with the Local Government Division.

COMPLAINANT: The person (including the chief elected official) who files a complaint under Section 5-3-10.

DISCRIMINATORY HOUSING PRACTICE: An act that is unlawful under Sections 5-3-4, 5-3-5, or 5-3-6 of this Chapter.

DWELLING: Any building, structure or portion thereof which is occupied as, designed or intended for occupancy as a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

FAMILIAL STATUS: One (1) or more individuals (who have not attained the age of eighteen (18) years) being domiciled with:

A. A parent or another person having legal custody of such individual or individuals; or

B. The designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant, or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.

FAMILY: Includes a single individual.

HANDICAP: With respect to a person:

A. A physical or mental impairment which substantially limits one (1) or more of such person's major life activities;

B. A record of having such an impairment; or

C. Being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to, a controlled substance (as defined in Section 102 of the Controlled Substances Act [21 U.S.C. 802]).

PERSON: Includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

RESPONDENT: A. The person or other entity accused in a complaint of an unfair housing practice; and

B. Any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under Section 5-3-10.

TO RENT: Includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises owned by the occupant. (Ord. 2010-08, 7-7-2010)

5-3-3: **UNLAWFUL PRACTICE:** Subject to the provisions of subsection B.1. of this Section and Section 5-3-7 of this Chapter, the prohibitions against discrimination in the sale or rental of housing set forth in Section 5-3-3 shall apply to:

A. All dwellings except as exempted by subsection B.1. below.

B. Nothing in Section 5-3-4 of this Chapter shall apply to:

1. Any single-family house sold or rented by an owner; Provided, that such private individual owner does not own more than three (3) such single-family houses at any one (1) time; Provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale, or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one (1) such sale within any twenty-four (24) month period; Provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to, or any right to all or a portion of the proceeds from the sale or rental of, more than three (3) such single-family houses at any one time; Provided further, that the sale or rental of any such single-family house shall be excepted from the application of this Chapter only if such house is sold or rented without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesperson or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesperson or person, and without the publication, posting or mailing,

after notice of any advertisement or written notice in violation of Section 5-3-4C. of this Chapter, but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title; or

2. Rooms or units in dwellings contained living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one (1) of such living quarters as their residence.

C. For the purposes of subsection B. above, a person shall be deemed to be in the business of selling or renting dwellings if:

1. They have, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein; or

2. They have, within the preceding twelve (12) months, participated as agent, other than in the sale of their own personal residence in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein; or

3. They are the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families. (Ord. 2010-08, 7-7-2010)

5-3-4: **DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING:** As made applicable by Section 5-3-3 of this Chapter and except as exempted by Sections 5-3-3B.1. and 5-3-7 of this Chapter, it shall be unlawful:

A. To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, handicap, familial status or national origin.

B. To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, handicap, familial status or national origin.

C. To make, print or publish, or cause to be made, printed or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin, or an intention to make any such preference, limitation or discrimination.

D. To represent to any person because of race, color, religion, sex, handicap, familial status or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

E. For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status or national origin. (Ord. 2010-08, 7-7-2010)

5-3-5: **DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS:**

A. In General: It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status or national origin.

B. Definition: As used in this Section, the term "residential real estate-related transaction" means any of the following:

1. The making or purchasing of loans or providing other financial assistance:

(a) For purchasing, constructing, improving, repairing or maintaining a dwelling; or

(b) Secured by residential real estate.

2. The selling, brokering or appraising of residential real property.

C. Appraisal Exemption: Nothing in this Chapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, sex, handicap, familial status or national origin. (Ord. 2010-08, 7-7-2010)

5-3-6: **DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES:** It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against them in the terms or conditions of such access, membership or participation because of race, color, religion, sex, handicap, familial status or national origin. (Ord. 2010-08, 7-7-2010)

5-3-7: **EXEMPTION:** Nothing in this Chapter shall prohibit a religious organization, association or society or any nonprofit institution or organization operated, supervised or controlled by, or in conjunction with, a religious organization, association or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons

of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, national origin or handicap. Nor shall anything in this Chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. (Ord. 2010-08, 7-7-2010)

5-3-8: **ADMINISTRATION:**

A. The authority and responsibility for administering this Chapter shall be in the chief elected official of the City of Sunland Park.

B. The chief elected official may delegate any of these functions, duties and powers to employees of the City of Sunland Park or to boards of such employees, including functions, duties and powers with respect to investigating, conciliating, hearing, determining ordering, certifying, reporting or otherwise acting as to any work, business or matter under this Chapter. The chief elected official shall by rule prescribe such rights of appeal from the decisions of their hearing examiners, to other hearing examiners or to other offices in the City of Sunland Park, to boards of officers or to themselves, as shall be appropriate and in accordance with law.

C. All City of Sunland Park departments and agencies shall administer their programs and activities relating to housing and community development in a manner affirmatively to further the purposes of this Chapter and shall cooperate with the chief elected official to further such purposes. (Ord. 2010-08, 7-7-2010)

5-3-9: **EDUCATION AND CONCILIATION:** Immediately after the enactment of this Chapter, the chief elected official shall commence such educational conciliatory activities as will further the purposes of this Chapter. They shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this Chapter and the suggested means of implementing it and shall endeavor with their advice to work out programs of voluntary compliance and enforcement. (Ord. 2010-08, 7-7-2010)

5-3-10: **ENFORCEMENT:**

A. Any person who claims to have been injured by a discriminatory housing practice or who believes that they will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "aggrieved person") may file a complaint with the chief elected official. Complaints shall be in writing and shall contain such information, and be in such form as the chief elected official requires. Upon receipt of such a complaint, the chief

elected official shall furnish a copy of the same to the person or persons, who have committed, or are about to commit, the alleged discriminatory housing practice. Within thirty (30) days after receiving a complaint or within thirty (30) days after the expiration of any period reference under subsection C. below, the chief elected official shall investigate the complaint and give notice in writing to the aggrieved person whether they intend to resolve it. If the chief elected official decides to resolve the complaints, they shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this Chapter without the written consent of the persons concerned. Any employee of the chief elected official who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than one thousand dollars ($1,000.00) or imprisoned not more than one (1) year.

B. A complaint under subsection A. above shall be filed within one hundred and eighty (180) days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and with the leave of the chief elected official, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be verified.

C. If within thirty (30) days after a complaint is filed with the chief elected official, the chief elected official has been unable to obtain voluntary compliance with this ordinance, the aggrieved person may, within thirty (30) days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The chief elected official will assist in this filing.

D. If the chief elected official has been unable to obtain voluntary compliance within thirty (30) days of the complaint, the aggrieved person may, within thirty (30) days thereafter commence a civil action in any appropriate court, against the respondent named in the complaint, to enforce the rights granted or protected by this Chapter, insofar as such rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

E. In any proceeding brought pursuant to this Section, the burden of proof shall be on the complainant.

F. Whenever an action filed by an individual comes to trial, the chief elected official shall immediately terminate all efforts to obtain voluntary compliance. (Ord. 2010-08, 7-7-2010)

5-3-11: **INVESTIGATIONS/SUBPOENAS/GIVING OF EVIDENCE:**

A. In conducting an investigation, the chief elected official shall have access at all reasonable times to premises, records, documents, individuals and other evidence or possible sources of evidence and may examine, record and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance or the investigation: Provided, however, that the chief elected official first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The chief elected official may issue subpoenas to compel their access to, or the production of, such materials, or the appearance of such persons and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States District Court for the district in which the investigation is taking place. The chief elected official may administer oaths.

B. Upon written application to the chief elected official, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the chief elected official to the same extent and subject to the same limitations as subpoenas issued by the chief elected official. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at their request.

C. Witnesses summoned by subpoena of the chief elected official shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States District Courts. Fees payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by the respondent.

D. Within five (5) days after service of a subpoena upon any person, such person may petition the chief elected official to revoke or modify the subpoena. The chief elected official shall grant the petition if they find that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

E. In case of contumacy or refusal to obey a subpoena the chief elected official, or other person at whose request it was issued, may petition for its enforcement in the municipal or state court for the district in which the person to whom the subpoena was addressed resides, was served or transacts business.

F. Any person who willfully fails or neglects to attend and testify, or to answer any lawful inquiry, or to produce records, documents or other evidence, if in

his power to do so, in obedience to the subpoena or lawful order of the chief elected official shall be fined not more than one thousand dollars ($1,000.00) or imprisoned not more than one (1) year or both. Any person who, with intent thereby to mislead the chief elected official, shall make or cause to be made any false entry or statement of fact in any report, account, record or other document submitted to the chief elected official pursuant to his subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true and correct entries in such reports, accounts, records or other documents, or shall willfully mutilate, alter or by any other means falsify any documentary evidence, shall be fined not more than one thousand dollars ($1,000.00) or imprisoned not more than one (1) year, or both.

G. The City of Sunland Park attorney shall conduct all litigation in which the chief elected official participates as a party or as amicus pursuant to this Chapter. (Ord. 2010-08, 7-7-2010)

5-3-12: **ENFORCEMENT BY PRIVATE PERSONS:**

A. The rights granted by Sections 5-3-3, 5-3-4, 5-3-5 and 5-3-6 of this Chapter may be enforced by civil actions in the appropriate United States district, state or local court. A civil action shall be commenced within one hundred and eighty (180) days after the alleged discriminatory housing practice occurred; Provided, however, that the court shall continue such civil case brought pursuant to this Section or Section 5-3-10D. of this Chapter from time to time before bringing it to trial if the court believes that the conciliation efforts of the chief elected official are likely to result in satisfactory settlement of the alleged discriminatory housing practice complained of in the complaint made to the chief elected official and which practice forms the basis for the action in court; And provided, however, that any sale, encumbrance or rental consummated prior to the issuance of any court order issued under the authority of this Chapter and involving a bona fide purchaser, encumbrances or tenant without actual notice of the filing of a complaint or civil action under the provisions of this Chapter shall not be affected.

B. The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order or other order and may award to the plaintiff actual damages and not more than one thousand dollars ($1,000.00) punitive damages, together with court costs and reasonable attorney fees in the case of a prevailing plaintiff: Provided, that the said plaintiff in the opinion of the court is not financially able to assume said attorney's fees. (Ord. 2010-08, 7-7-2010)

5-3-13: **INTERFERENCE. COERCION OR INTIMIDATION:** It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on

account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by Sections 5-3-3, 5-3-4, 5-3-5, or 5-3-6 of this Chapter. This Section may be enforced by appropriate civil action. (Ord. 2010-08, 7-7-2010)

5-3-14: **SEPARABILITY OF PROVISIONS:** If any provision of this Chapter or the application thereof to any person or circumstances is held invalid, the remainder of the Chapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby. (Ord. 2010-08, 7-7-2010)

5-3-15: **PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES:** Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with:

A. Any person because of their race, color, religion, sex, handicap, familial status, or national origin and because they are or have been selling, purchasing, renting, financing, occupying or contracting or negotiating for the sale, purchase, rental, financing, or occupation of any dwelling, or applying for or participating in any service organization or facility relating to the business of selling or renting dwellings; or

B. Any person because they are or have been, or in order to intimidate such person or any other person or any class of persons from:

1. Participating, without discrimination because of race, color, religion, sex, handicap, familial status or national origin, or in any of the activities, services organizations, or facilities described in subsection 5-3-15A. of this Chapter; or

2. Affording another person or class of persons opportunity or protection so to participate; or

C. Any citizen because they are or have been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap, familial status or national origin, in any of the activities, services, organizations or facilities described in subsection 5-3-15A. of this Chapter, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate-shall be fined not more than one thousand dollars ($1,000.00), or imprisoned not more than one (1) year or both; and if bodily injury results shall be fined not more than one thousand dollars ($10,000.00), or imprisoned not more than ten (10) years or both; and if death results shall be subject to imprisonment for any term of years or for life and/or to other applicable local/state/federal laws. (Ord. 2010-08, 7-7-2010)

TITLE 6

CHAPTER 1

UNIFORM TRAFFIC ORDINANCE

SECTION:

6-1-1: Adoption Of Uniform Traffic Ordinance

6-1-1: ADOPTION OF UNIFORM TRAFFIC ORDINANCE:

A. Code Adopted By Reference: Except as otherwise provided in this section, the 2010 New Mexico uniform traffic ordinance (herein "2010 UTO") being a traffic code, as amended, is adopted by reference pursuant to New Mexico Statutes Annotated 1978 section 3-17-6A.

B. Ordinance Available For Inspection: A copy of the 2010 New Mexico uniform traffic ordinance is available for inspection during the municipal clerk's normal and regular business hours at 1000 McNutt Road, city hall, city of Sunland Park.

C. Copies Of Ordinance Available; Fee: A copy of the city of Sunland Park, New Mexico, 2010 New Mexico uniform traffic ordinance, as amended, may be purchased from the municipal clerk at the cost of twenty five dollars ($25,00).

D. Effective Date: This section shall be effective at five o'clock (5:00) P.M. daylight saving time, July 1, 2003. (Ord. 03-02, 7-1-2003; amd. Ord. 2011-08, 7- -2011; amd. Ord. 2015-4, 6-16-2015; amd. Ord. 2016-3, 7-5-2016)

6-2-1:

Vehicle Weight Limit On Certain Streets

6-2-1:

VEHICLE WEIGHT LIMIT ON CERTAIN STREETS:

GIBSON-VECK ROAD:

it is unlawful for any person to operate a motor vehicle of more than seven thousand (7,000) pounds on Gibson-Veck Road between Sunland Park Drive West to Frontera Road. The Public Works Director shall sign the portion of the Gibson-Veck Road in question. Any person found guilty of violating this provision shall be punished as provided in Section 1-4-1 of this Code. Each trip across the Road in violation of this provision shall constitute a separate offense. (Ord. 1993-11, 12-6-1993; amd. 2000 Code)

CHAPTER 3 OPEN CONTAINERS IN VEHICLES

SECTION:

6-3-1: Short Title
6-3-2: Definitions
6-3-3: Possession Of Open Container While Driving
6-3-4: Possession Of Open Container While In Motor Vehicle
6-3-5: Storage Of Open Container Prohibited
6-3-6: Exceptions
6-3-7: Penalty

6-3-1: SHORT TITLE: This Chapter may be cited as the OPEN CONTAINER ORDINANCE. (Ord. 1988-04, 2-16-1988, eff. retroactive to 1-15-1988)

6-3-2: DEFINITIONS:

ALCOHOLIC BEVERAGE: Distilled or rectified spirits, potable alcohol, brandy, whisky, rum, gin and aromatic bitters bearing the Federal Internal Revenue strip stamps or any similar alcoholic beverage,

including all blended or fermented beverages, dilutions or mixtures of one or more of the foregoing containing more than one-half of one percent (0.5%) alcohol but excluding medicinal bitters.

BEER: Any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt and hops or other cereals in water, and includes porter, beer, ale and stout.

BUS: Every motor vehicle designed and used for the transportation of persons; and every motor

vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

CAMPER:

CLERGYMAN:

CONTAINER:

DOCTOR:

DRIVER:

A vehicle which is composed of a chassis, or frame with wheels, which either has its own motive power or is drawn by another vehicle, and a camping body primarily designed or converted for use as temporary living quarters for recreational, camping or travel activities.

A person who is a member of the clergy and is ordained by a recognized religion to perform pastoral or sacerdotal functions in a duly organized setting.

A receptacle or holder of some specified substance. Receptacle or holder includes, but is not limited to, bottle, can, cup, glass, or other similar devices designed to hold or contain a quantity of some specified substance.

A person who is duly licensed by New Mexico to practice medicine, and is authorized by his profession to give medical treatment.

Every person who drives or is in actual physical control of a motor vehicle, including a motorcycle, upon a street (roadway) or who is exercising control over or steering a vehicle being towed by a motor vehicle.

FORTY EIGHT HOURS:

Means that each offender shall be sentenced to a jail term of not less than forty eight (48) consecutive hours which shall not be suspended or deferred or taken under advisement.

GLOVE
COMPARTMENT:

A storage cabinet in the dashboard or passenger compartment of a motor vehicle.

HOUSE TRAILER:

Any vehicle without motive power designed or used as a mobile home, office, shop, or as a recreational, camping or travel facility.
HOUSECAR:

LIMOUSINE:

LIVING QUARTERS:

A vehicle which is composed of a chassis, or frame with wheels, which either has its own motive power or is drawn by another vehicle, and a camping body primarily designed or converted for use as temporary living quarters for recreational, camping or travel activities.

A larger than normal motor vehicle used in the transportation of persons for hire; and a large luxurious often chauffeur-driven sedan that sometimes has a glass partition separating the driver's seat from the passenger compartment.

That area of the motor vehicle divided and separated from the driving compartment of a motor vehicle which is a distinct and assigned location for living accommodations when the vehicle is at rest.

MEDICINAL PURPOSES:

MOBILE HOME:

MOTOR VEHICLE:

OPEN CONTAINER:

PASSENGER(S):

Means that a licensed physician or doctor of medicine prescribes and designates the use of alcohol, including medicinal bitters for use as a remedy.

A house trailer, other than one held as inventory for sale or resale, that exceeds either the width of eight feet (8') or a length of forty feet (40'), when equipped for the road.

Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from batteries or from overhead trolley wires, but not operated upon rails. "Motor vehicle" includes, but is not limited to, automobiles, cars, mopeds, motorcycles, motor-driven cycle, semi-truck or trailer, including all other devices designed to travel on roadways.

A receptacle or holder which has been opened, or seal broken, or the contents of which have been partially removed.

Every person who is physically in a motor vehicle, but who does not have actual physical

control of a motor vehicle upon a roadway and who is not exercising control over or steering a vehicle.

PASSENGER COMPARTMENT: That area embraced within the motor vehicle where the driver and passengers normally participate as driver or passenger in a motor vehicle which includes, but is not limited to, the front or rear seats of the motor vehicle.

PERSON:

POSSESSION:

Every natural person, firm, copartnership, association, corporation, or other legal entity.

The act of having or taking into control any alcoholic beverages for any reason, including consumption on any street, roadway, or highway while in a motor vehicle. The term does not apply to the possession of alcohol for an established religious purpose or to the sale, handling, transport, delivering, pursuant to the lawful employment of a person duly licensed by the manufacturer, wholesaler, or retailer of alcoholic beverages.

RECEPTACLE:

Any container or holder that receives or contains an amount of some specified substance. Receptacle includes, but is not limited to, bottle, can, glass, cup, plastic container, or other similar devices designed to hold or contain a quantity of some specified substance.

RECREATIONAL VEHICLE: A vehicle which is composed of a chassis, or frame with wheels, which either has its own motive power or is drawn by another vehicle, and a camping body primarily designed or converted for use as temporary living quarters for recreational, camping or travel activities.

REGISTERED OWNER: A person who holds the legal title of a vehicle or, in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the

ROADWAY:

TAXICAB:

TRAILER:

agreement and with an immediate right of possession vested in the conditional vendee or lessee, or, in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor.

That portion of a street improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a street includes two (2) or more

separate roadways, the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

A motor vehicle used in the transportation of persons for hire, having a normal seating capacity of not more than seven (7) persons.

Any vehicle, without motive power, designed for carrying persons or property and for being drawn by a motor vehicle, and so constructed that no part of its weight rests upon the towing vehicle.

TRUNK:

That area of the motor vehicle normally referred to as the luggage compartment of a motor vehicle, which is separate and inaccessible from the driver or passenger compartment of a motor vehicle.

UTILITY
COMPARTMENT:

VAN:

A storage area located in the dashboard or any other area of the driver or passenger compartment of a motor vehicle.

An enclosed wagon or motortruck used for transportation of goods or animals; and a multipurpose enclosed motor vehicle having a boxlike shape, rear or side doors, and side panels often with windows. (Ord. 1988-04, 2-16-1988, eft. retroactive to 1-15-1988)

6-3-3: POSSESSION OF OPEN CONTAINER WHILE DRIVING: No person shall have in his or her possession on his or her person, while driving a motor vehicle upon a roadway within the City limits, any bottle, can, glass, or other receptacle containing any alcoholic beverage which has been opened, or a seal broken or the contents of which have been partially removed. (Ord. 1988-04, 2-16-1988, eff. retroactive to 1-15-1988)

6-3-4: POSSESSION OF OPEN CONTAINER WHILE IN MOTOR VEHICLE: No person shall have in his or her possession on his or her person, while in a motor vehicle upon a roadway in the City limits, any bottle, can, glass, or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed. (Ord. 1988-04, 2-16-1988, eff. retroactive to 1-15-1988)

6-3-5: STORAGE OF OPEN CONTAINER PROHIBITED:
A. Storage In Trunk Or Utility Compartment: It is unlawful for the registered owner of any motor vehicle, or the driver, if the registered owner is not present in the vehicle, to keep in a motor vehicle, when the vehicle is upon any roadway in the City limits, any bottle, can, or other receptacle containing any alcoholic beverage which has been opened or a seal broken, or the contents of which have been partially removed, unless the container is kept in the trunk of the vehicle, or kept in some

other area of the vehicle not normally occupied by the driver or passengers, if the vehicle is not equipped with a trunk. A utility compartment or glove compartment shall be deemed to be within the area occupied by the driver and passengers. This subsection shall not apply to the living quarters of a housecar or camper.

B. Storage In Passenger Compartment: It is unlawful for any person to keep in the passenger compartment of a motor vehicle, when the vehicle is upon any roadway in the City limits, any bottle, can or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed. This subsection shall not apply to the living quarters of a housecar or camper. (Ord. 1988-04, 2-16-1988, eff. retroactive to 1-15-1988) 6-3-6: EXCEPTIONS:

C. For-Hire Vehicles: Section 6-3-4 and subsection 6-3-5A of this Chapter shall not apply to passengers in any bus, taxicab, or limousine for hire licensed to transport passengers pursuant to proper local authority, or the living quarters of a housecar or camper, nor shall subsection 6-3-5A of this Chapter apply to the driver or owner of a bus, taxicab, or limousine licensed to transport passengers pursuant to the proper local authority.

D. Physician Recommendation: Sections 6-3-3, 6-3-4 and 6-3-5 of this Chapter shall not apply to any person who, upon the recommendation with proper documentation of a licensed physician, carries alcoholic beverages in that person's motor vehicle for medicinal purposes.

E. Clergyman: Sections 6-3-3, 6-3-4 and 6-3-5 of this Chapter shall not apply to any clergyman who carries alcoholic beverages in the clergyman's motor vehicle for religious purposes. (Ord. 1988-04, 2-16-1988, eff. retroactive to 1-15-1988)

6-3-7: PENALTY: Any person violating Section 6-3-3 of this Chapter shall be subject to penalty as provided in Section 1-4-1 of this Code. (Ord. 1988-04, 2-16-1988, eff. retroactive to 1-15-1988; amd. 2000 Code)

TITLE 8

WATER AND SEWER

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CHAPTER 1
WATER SYSTEM
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8-1-1: ENFORCEMENT:
A. Management By Clerk-Treasurer: The city clerk-treasurer shall have the overall responsibility for the control, management and direction of the municipal water system and shall perform all acts necessary for the prudent, efficient and economical management of the system, subject to the approval and confirmation of the council.

B. Rules And Regulations: The council may adopt resolutions, rules and regulations as it may deem necessary for operation of the system. (Ord. 1985-01, 3-5-1985)

8-1-2: DEFINITIONS: The following definitions are applicable wherever these terms are used in this chapter:

CHRONICALLY DELINQUENT CUSTOMER: A customer of the city who, on an average taken over his past payment history (not to exceed 12 months) pays his bill to the city forty (40) days or more after the due date.

CITY: City of Sunland Park.

COMMERCIAL UNIT: Includes individual commercial enterprises, and in case of ownership or operation by the same entity, is those enterprises under different names.

CROSS CONNECTION: Any physical connection or arrangement between two (2) otherwise separate piping systems, one of which contains potable water and the other of unknown or questionable safety, or an unmetered supply, whereby water may flow from one system to the other, the direction of flow depending on the pressure differential between the two (2) systems.

CUSTOMER: Any person, firm, association, corporation, or

LARGE COMMERCIAL AND INDUSTRIAL UNIT: any agency of the federal, state, or local government, being supplied with, desiring or responsible for payment for, water or related services by the city.

Any person, firm, association, corporation, or any agency of the federal, state, or local government being supplied with, desiring or responsible for payment for water or related services by the city for commercial related services with a water meter size of two inches (2") or greater and/or a wastewater BODs greater than two hundred fifty milligrams per liter (250 mg/l).

LIVING UNIT:
Includes individual townhouses, single-family dwelling, or individual condominium. It does not include individual rooms in hotels or motels.

MUNICIPAL LINE:
All main and lateral lines within roadways, streets, city owned land, alleys or easements.

NORMAL SERVICE PRESSURE:
The range of thirty five (35) to one hundred twenty five (125) pounds can ordinarily be made available in areas contiguous to existing lines.

POINT OF DELIVERY:
At the property line, designated by city owned valve.

PRACTITIONER OF THE HEALING ARTS:
A doctor of medicine, doctor of osteopathy, doctor of dental surgery, or doctor of chiropractic.

PRESSURE REGULATING DEVICE:
RESIDENTIAL CUSTOMER UNIT:
SERIOUSLY ILL PERSON:
SERVICE LINE:
SMALL COMMERCIAL UNIT:

A device that maintains a constant water pressure at its immediate downstream side which is less than the inlet pressure to the device, unless the pressure on the inlet side is lower than the pressure setting for the downstream side.
Any individual or person(s) being supplied with, desiring or responsible for payment for water or related services by the city exclusively for domestic services. Residential service includes single-family housing units and apartments with individual meters for each dwelling.
A person residing in a living unit to which the city supplies water, whose life would be endangered in the event of termination of such service.
The pipe connection from a distribution water main to the water meter.
Any person, firm, association, corporation, or any agency of the federal, state, or local government being supplied with, desiring or responsible for payment for water or related

services by the city for commercial related services with a water meter size less than two inches (2") for domestic water use type services. Commercial service includes retail stores, garages, restaurants, clubs, schools, churches, municipal, state, and federal buildings.
TERMINATION: Disconnection of water service.
TERMINATION A notice sent to a customer that his service will
NOTICE: be terminated for nonpayment of service, giving the customer fifteen (15) days after mailing (excluding Saturdays, Sundays and holidays observed by the city) in which to pay his account in full.
WATER MASTER PLAN:
WATER PRESSURE:
WATER SERVICE:
The official plan adopted by the city council to guide decisions of the city of Sunland Park with regard to the future growth, development and operation of the municipal water system.
The gauge pressure of water within a pipe measured in pounds per square inch above atmospheric pressure and abbreviated herein as "pounds".
The general term for furnishing the customer with water. (Ord. 1985-01, 3-5-1985; amd. Ord. 1987-15, 8-4-1987; Ord. 04-02, 1-20-2004)
8-1-3: CHARACTER OF SERVICE: Water service for domestic, commercial, industrial, sanitary and other purposes will be furnished under conditions as stated herein and in any rules and regulations adopted by the city council. There shall be one meter for each "living unit" or "commercial unit". (Ord. 1985-01, 3-5-1985)
8-1-4: APPLICATION FOR SERVICE:
A. Filing; Acceptances; Contract: Applications for water service shall be made at the city utility billing office. Acceptance of an application shall be evidenced by the city provision of service. A written contract for service is not required except for extensions of facilities other

than service lines made in accordance with section 8-1-16 of this chapter. In those cases a written contract prior to providing service is required. (Ord. 1985-01, 3-5-1985; amd. 2000 Code)

B. Load Information: The customer shall be required to provide load information on new construction or alteration sufficiently in advance of the actual service requirement date to enable the city to provide adequate service facilities.

C. Time Limit For Providing Service; Customer Requirements: The city will make all reasonable efforts to supply service within sixty (60) days, weather permitting, after the application or agreement is approved, and after any necessary permits shall have been obtained. It is the responsibility of the customer to comply with all applicable codes and to obtain the necessary permits from governmental authorities. If, due to circumstances beyond the control of the city, service cannot be furnished within sixty (60) days, the customer shall be advised promptly regarding the delay.

D. New Or Additional Service Limited: New or additional service will be limited to available unreserved capacity in production, transmission and distribution facilities, and commensurate with the city's available water rights. In all cases where such existing facilities are limited, the city may require a written contract for payment of sums sufficient over the contract period, adequate to warrant the investment and reservation of necessary equipment and water rights required to render such service.

E. Customers Bound By City Regulations: All provisions of this chapter and any rules and regulations of the council shall be considered a part of the contract of every person taking water from the water system of the city and every person taking water shall be considered as having expressly consented to be bound thereby. (Ord. 1985-01,
3-5-1985)

F. Plans And Specifications: Applications shall include plans and specifications that show all mains, service lines, fire plugs, and construction details. The installation shall equal or exceed standards set forth in all applicable rules, regulations, codes and law and all requirements of the water and wastewater department. No tap for water shall be allowed on the main supply line from Santa Teresa. (Ord. 1985-01, 3-5-1985; amd. 2000 Code)

8-1-5: CUSTOMER'S SYSTEM; INSPECTION: The piping system on customer's premises shall be inspected and approved by the appropriate governmental inspection agency, proof of inspection required with state plumbing inspector's seal of approval, before water service will be connected. Cross connections or backflow possibilities revealed by any inspection shall be eliminated before water service is provided to a new customer or continued to an existing customer. The city does not assume the responsibility for piping inspections and shall not be held liable for failure of customer's piping or installation. (Ord. 1985-01, 3-5-1985; amd. 2000 Code)

8-1-6: REQUIREMENTS OF CONTRACTS:

A. Normally Not Required: Special written contracts are normally not required from customers receiving service under section 8-1-3 of this chapter, who do not require a line extension agreement.

B. Standard Agreement On Contract: All customers not covered by subsection A of this section will be provided service only after the customer executes either the city's standard agreement for water service or, in special cases, an appropriate contract.

C. Contents Of Contracts: All contracts between the city and its customers shall contain substantially the following clause:

The City of Sunland Park, New Mexico reserves the right to modify the rates or conditions of service set forth herein by notice to the customer in writing thirty days prior to the effective date of the change in rates or conditions of service and such contract rates and conditions of service shall be deemed modified at such time.

D. Installations; Compliance With Codes And Statutes: All customer installations shall comply with the plumbing code of the state of New Mexico and any other applicable codes, regulations, or statutes.

(Ord. 1985-01, 3-5-1985)

8-1-7: FEES AND CHARGES FOR SERVICE AND CONNECTIONS':

A. Service Charges Within City: Every customer whose meter is located within the city boundaries shall pay to the city for water service:

1. See also chapter 3 of this title.

1. Residential Water Rates: Residential water rates are for the individual customer for domestic water services. Residential service includes single-family housing units and apartments with individual meters for each dwelling.

Usage	Rate
Minimum for water used up to 7,000 gallons	$13.00
Per 1,000 gallons of additional water taken rounded to the nearest 1,000 gallons, up to 11,000 gallons	1.25
Per 1,000 gallons up to 15,000 gallons	1.35
Thereafter per 1,000 gallons	1.50

2. Small Commercial Water/Wastewater Rates: Commercial water and wastewater rates are for any business or institution with water meter sizes less than two inches (2") for domestic water use. Commercial service includes retail stores, garages, restaurants, clubs, schools, and churches, municipal, state and federal buildings.

Usage Rate
Minimum for water used $19.00
up to 5,000 gallons
Per 1,000 gallons of additional 1.00
water taken rounded to
the nearest 1,000 gallons,
up to 15,000 gallons
Thereafter per 1,000 1.25
gallons
3. Large Commercial And Industrial Water/Wastewater Rates: Industrial water and wastewater rates are for any commercial, industrial, or business institution with water meter sizes two inches (2") and larger and/or wastewater BODs greater than two hundred

fifty milligrams per liter (250 mg/l). The water rate also applies to residential customers with meter sizes two inches (2") and larger.
Usage Rate
$25.00
Minimum for water used 1.00
up to 7,000 gallons

Per 1,000 gallons of additional
water taken rounded to
the nearest 1,000 gallons,
up to 15,000 gallons
Thereafter per 1,000 1.25 gallons
B. Service Charges Outside City: Every customer whose meter is located outside the city boundaries shall pay to the city the following water rates for water service:
1. Residential Water Rate: 5/8 x 3/4
Water Rate: $18.00 - minimum for water used up to 7,000 gallons
2. Small Commercial Water Rate: 5/8 x 3/4
Water Rate: $24.50 - minimum for water used up to 5,000 gallons
3. Large Commercial And Industrial Water Rates: 5/8 x 3/4 Water Rate: $30.50 - minimum for water used up to 7,000 gallons
C. Multiple Units; Master Meter: Where a master meter is located within or outside the city and serves more than one living unit or more than one commercial unit or combination of living unit and commercial unit, in addition to all charges under subsection A or B of this section, the customer shall pay a monthly minimum charge equal to thirteen dollars ($13.00) plus tax multiplied by the number of living units and commercial units served. (Ord. 04-02, 1-20-2004)
D. Charge For Service Discontinued:
1. Whenever service is discontinued, a charge of twenty five dollars ($25.00) plus tax shall be made by the city to cover the cost of reconnecting service during normal city business hours.

2. If a customer requests reconnection after normal business hours, a charge of thirty dollars ($30.00) shall be made by the city for such special service. (Ord. 1985-01, 3-5-1985)
E. Charge For Check Returned For Insufficient Funds: The city may apply a charge of twenty five dollars ($25.00) plus tax to the customer's account balance in the event a customer's check or bank draft is returned for insufficient funds. (Ord. 04-02, 1-20-2004)

F. Taps Purchased Subject To Minimum Bill: All taps purchased, whether the tap is installed or not, will be subject to the minimum bill starting the first month from purchase date. All taps not physically installed, but paid for, shall be subject to any and all tap fee increases up to the time of installation.

G. One Time Tap Fee And Meter Charge:

1. Within City: In addition to all other charges, a one time tap fee and meter deposit for service to property inside the city shall be paid in advance of connection to the system by all customers for each meter as follows:

Meter Size	Connection Or Tap Fee	Meter Deposit
5/8 x 3/4 inch	$280.00	Plus $30.00
1 inch	280.00	Plus meter cost, accessories and extra labor
2 inch	280.00	Plus meter cost, accessories and
3 inch	extra labor	
4 inch		
5 inch	280.00	Plus meter cost, accessories and
	extra labor	
	280.00	Plus meter cost, accessories and
	extra labor	
	280.00	Plus meter cost, accessories and
	extra labor	

2. Outside City: In addition to all other charges, a one time tap fee and meter deposit for service to property outside the city shall be

paid in advance of connection to the system by all customers for each meter as follows:

Meter Size	Connection Or Tap Fee	Meter Deposit
58 x 3/4 inch	$300.00	Plus $50.00
1 inch	300.00	Plus meter cost, accessories and extra labor
2 inch	300.00	Plus meter cost, accessories and extra labor
3 inch	300.00	Plus meter cost, accessories and extra labor
4 inch	300.00	Plus meter costs, accessories and extra labor
6 inch	300.00	Plus meter cost, accessories and extra labor

3. Multiple Units; Master Meter: A customer who installs a master meter to serve more than one living unit or more than one commercial unit or combination of living unit and commercial unit, shall pay an amount equal to the number of units multiplied by the tap fee. (Ord. 1985-01, 3-5-1985)

H. Charge Imposed On Lots Not Connected To Available Service Pipes:

1. Charge Established: There is hereby imposed upon any improved or unimproved lot or land not having water connections within the city which lot or land adjoins any street, public right of way or easement, through which water pipes which can be tapped for water connections are laid, and adequate service thereto is available, a minimum annual charge of fifty dollars ($50.00) or seventy five cents ($0.75) per front foot of such lot or land so adjoining such street, public right of way or easement, whichever is more.

2. Annual Billing: Bills for charges imposed under this subsection for such service shall be rendered annually beginning July 1, 1984. The charges imposed under this subsection shall not begin until six (6) months from the date that adequate water service to such lot or land is available. (Ord. 1993-03, 3-22-1993)

3. Owner Responsible; Lien; Exception:

a. The charges imposed under subsection H1 and H2 of this section are the responsibility of the owner of the lot or land not having water connections, which lot or land adjoins any street, public right of way or easement through which water pipes which can be tapped for water connections are laid, and adequate service thereto is available.

b. The charges imposed under this subsection shall constitute a lien upon the property so charged and shall be a personal responsibility of the owner so charged.

c. No charges shall be made pursuant to this subsection for service to any lot or land where for technical reasons the water could not be used by such adjoining property. (Ord. 1985-01, 3-5-1985)

I. Annual Increase: All rates, including minimum and variable rates, shall be increased by four percent (4%) or adjusted for inflation annually from the current seventy five percent (75%) to one hundred percent (100%) of the consumer price index (percent Dec. - Dec.), whichever is greatest, U.S. department of labor, bureau of statistics, CPI-U, all items, unless otherwise acted upon by the municipal governing body. This annual increase to become effective based on April 1, 2009. (Ord. 04-02, 1-20-2004; amd. Ord. 09-01, 3-17-2009)

8-1-8: **CREDIT AND DEPOSITS:**

A. Service:

1. New Customers: Service will be provided to any new customer with a deposit of thirty dollars ($30.00) for property owners, and one hundred dollars ($100.00) for renters. (Ord. 1985-01, 3-5-1985; amd. 2000 Code)

2. Reconnection: Prior to reconnection or at any time thereafter, additional deposit may be required from any customer whose service has been disconnected for nonpayment, or additional deposit may be required from any chronically delinquent customer and from any customer who in the city's judgment justifies an additional deposit because of a history of late payments.

3. Determination Of Amount Of Deposit: The amount of a deposit, when required, will be equal to the charges for three (3) billing periods based upon the city's estimate of the customer's monthly bill.

B. Term Of Deposit And Refunds:

1. Term Of Service: Deposits may be held for the term of service rendered by the city to the customer.

2. Settlement Of Account After Customer Terminates Service: Refunds of deposit will be made within a reasonable time after receipt of notice from the customer that the customer is terminating service and after the meters have been read and the city has ascertained that the obligations of the customer, including all accounts due the city by the customer, have been settled in full. (Ord. 1985-01, 3-5-1985)

C. Deposit Amount For Nonowner: The amount of the deposit required for service to property not occupied by an owner shall be one hundred dollars ($100.00) or an amount equal to the average of the last three (3) months' water bill, whichever is greater. (Ord. 1993-03, 3-22-1993)

8-1-9: MANNER OF SERVING NOTICE TO CUSTOMER: Except as may be provided herein, notice by the City to the customer may be given orally, by telephone or in writing. (Ord. 1985-01, 3-5-1985)

8-1-10: RENDERING AND PAYMENT OF BILLS:

A. Delinquency; Late Payment Penalty; Water Shutoff:

1. Bills will be rendered each month except for billings under subsection 8-1-7H of this Chapter.

2. All bills shall become due on and delinquent after the fifteenth day the bill is mailed. If not timely paid, an additional ten percent (10%) will be added as late penalty.

3. In addition to the amounts becoming a lien on the property, service shall be shut off from the delinquent property and restored only upon payment of the delinquent amounts plus the cost of reconnection or any additional deposits required.

4. Except as otherwise provided, if payment is not made by the date specified in the termination notice, then service may be terminated on or after the date specified which shall be at least fifteen (15) days after the termination notice was mailed.

B. Deferred Payment Plan: The City shall attempt to arrange with every nonchronically delinquent residential customer who expresses an inability to pay his water charges, a deferred payment plan for the payment of past due water charges. The plan need not be signed by both parties; however, the City shall maintain a record of the essential provisions of the plan, which record shall be conclusive as to the plan agreed upon. In the event the customer fails to comply with the plan agreed upon, then the City shall terminate service; however, not until after giving five (5) days' written notice of termination.

C. Customer Complaint; Review By City:

1. In the event any customer complains that either: a) a proposed payment plan is unreasonable; b) a charge is not due and owing; or c) he has not violated any agreed upon repayment plan, then in such event a review of such customer's complaint shall be conducted by the City.

2. The review shall be conducted by the City Clerk-Treasurer or any person appointed by him who has the authority to rescind the termination order, correct charges, extend a repayment plan, or to take other appropriate action that he may deem appropriate.

3. The reviewing person shall take all circumstances into consideration and shall use his discretion in the review and try to accommodate customers who are in a temporarily difficult financial position and attempt to be fair and equitable, but not to allow customers who are unwilling to make a good faith effort to pay their utility charges to take advantage of the City and to assure that just and due bills are paid so as to avoid subsidization by those customers who pay readily of those customers who fail to do so.

D. Disagreement With Reviewing Person; Complaint To Council:

1. It is recognized that a customer may disagree with the conclusion of the reviewing person and that he has the right to make a complaint to the City Council.

2. The filing of such a complaint shall stay discontinuance of service until the City Council makes a decision which will be final, binding and not subject to appeal.

3. This provision shall not preclude the City from following normal termination procedures in the event a customer fails to pay a subsequent bill. This prohibition against termination shall not apply unless a dispute is in good faith.

E. Meter Failure; Billing On Estimated Consumption: In the event of the stoppage of, or the failure by, any meter to register the full amount of water consumed, or inaccessibility of meter, or failure by the City to read the meter, the customer will be billed for such period on an estimated consumption based upon the use of water in a similar period of like use pursuant to subsection 8-1-17B3 of this Chapter.

F. Water Turnoff For Nonpayment:

1. All water charges shall be charged against the property served and against the owner thereof, and if for any reason any sums owing therefor become delinquent, the water shall be cut off and in no case shall it be turned on the same property until such delinquencies shall have been paid in full.

2. Change of ownership or occupation shall not affect the application of this Section.

G. Free Service Prohibited: The City will furnish no free service and if the City elects to use such services for Municipal purposes, it will budget and appropriate amounts to pay therefor at the same rate as is charged other customers for like or similar services. (Ord. 1985-01, 3-5-1985)

8-1-11: LIEN AGAINST PROPERTY:

A. Assessment Of Lien: The City shall have a lien on each lot or parcel of land served by said water system and on each lot or parcel of land not having water connections within the City which lot or land adjoins any street, public right of way or easement, through which water pipes which can be tapped for water connections are laid, and adequate service thereto is available, for charges imposed for all services rendered or made available by said water system plus interest at the maximum statutory rate.

B. Notice Of Lien: Notices of such liens shall be filed and liens shall be enforced as authorized by statute. (Ord. 1985-01, 3-5-1985)

8-1-12: DISPUTED BILLS: The City agrees to investigate any question as to accuracy of metering or of bills for service rendered, and if the bill is in error, the City shall submit a corrected bill to the customer as promptly as circumstances permit. (Ord. 1985-01, 3-5-1985)

8-1-13: DISCONTINUANCE AND DENYING RESTORATION OF SERVICE:

A. Customer Notify City To Discontinue Service: Customers who intend to move from the premises or discontinue the use of water or in any way limit their liability hereunder shall give the City thirty (30) days' prior written notice of such intention and the customer will be liable for all water that may be used upon the premises until such notice is given and the City has made final meter reading.

B. Service Interruption By City: The City reserves the right to interrupt service for a reasonable period for repairs to its property or equipment without notice.

C. City Notify Customer Of Service Discontinuance; Exceptions: Unless otherwise provided in the following subparagraphs, a customer shall be given two (2) weeks' oral or written notice in which to comply before service is discontinued:

1. Without notice for a condition determined by the City to be hazardous.

2. Without notice for use of equipment in such manner as to adversely affect the City's equipment or the City's service to others.

3. Without notice for tampering with, damaging, or destroying the equipment furnished and owned by the City.

4. Without notice in the event of unauthorized use.

5. For violation of or noncompliance with these rules.

6. For failure of the customer to fulfill his contractual obligations for water service.

7. For failure of the customer to permit the City reasonable access to its equipment.
8. With termination notice as defined herein for nonpayment of bill.
9. For failure of the customer to provide the City with a deposit as authorized by Section 8-1-8 of this Chapter.
10. For failure of the customer to furnish such service equipment, permits, certificates or rights of way, as shall have been specified by

the City as a condition to obtaining service, or in the event such equipment or permissions are withdrawn or terminated.
11. Without notice for bypassing a meter or otherwise interfering with the proper registration of water used. The water service shall not be reconnected until the bypass is removed and payment is made for any damages to the installation and for the value of estimated water service for the period during which the meter was tampered with has been made. Added thereto shall be a penalty, equal to one hundred percent (100%) of same amount. (Ord. 1985-01, 3-5-1985)
D. No Charge For Turnoff At Request Of Customer: The City shall not charge for turning the water off and on when done at the request of the customer and for his convenience. This includes turnoff due to broken customer water lines. (Ord. 1985-01, 3-5-1985; amd. 2000 Code)
E. Use Of City Shut-Off Valve: Use of the City's curb or meter shut-off valve by customer or customer's agent is prohibited. This practice by unauthorized persons shall be reason for discontinuance of service.
F. Waste Of Water: If the City finds evidence of waste of water by a customer, the City will advise the customer of such condition. If after a reasonable time corrections or repairs have not been made by the customer, the City shall discontinue service to the offending customer. (Ord. 1985-01, 3-5-1985)
8-1-14: TEMPORARY SERVICE AND SPECIAL SERVICES:
A. Property Owner Responsible:
1. Where water service is supplied directly to a trailer or other temporary or portable structures, the City may require that the application for service be in the property owner's name on whose land the trailer or other portable structure is located.
2. In such case, the monthly bill will be suitably identified as may be requested by the property owner, but it will be addressed to the property owner and the property owner will be responsible for payment of the same.

B. City Right To Refuse Service Or Set Conditions:
1. The City reserves the right to furnish or not to furnish water for any type of temporary use and further to define the conditions under which the water will be supplied.
2. Continuous service under normal conditions to existing customers shall take priority over customers receiving temporary service. (Ord. 1985-01, 3-5-1985)
8-1-15: INTERRUPTION OF SERVICE:
A. Customer Report To City: The City will strive to furnish adequate, efficient and reasonable service. Interruption of service should be reported promptly by the customer to the City. The City will endeavor to restore service within a reasonable time.
B. Thawing Frozen Water Lines:
1. Occupant Responsibility: Any freeze-up of any water line which is connected to or forms a part of the City's water system that is on the owner side of the point of delivery, hereinafter "owner's line" shall be the sole responsibility of the owner or occupant.
2. City Responsibility: Any freeze-up of any water line which is connected to or forms a part of the City's water system that is on the City side of the point of delivery, hereinafter "City's line" shall be the sole responsibility of the City.

3. Notify City; Thawing Procedure:
a. In the event a freeze-up of a water line is discovered during the regular working hours of eight o'clock (8:00) A.M. to five o'clock (5:00) P.M., Monday through Friday, excluding City recognized holidays, the owner or occupant shall notify the City. The City shall respond to such notice as quickly as possible. In the event the City employee, hereinafter "employee" determines that the freeze is on the City line, the employee shall proceed to thaw the City line, including the meter if necessary, only if it is practical to do so within working hours.
b. In the event that the freeze is on the owner line, the employee shall notify the owner/occupant and shall take no further action. It shall then be the sole responsibility of the owner/occupant to obtain

the services to thaw the owner line. In the event a freeze-up is discovered or reported on Saturdays, Sundays or City recognized holidays, City employees will respond to such a call between the hours of eight o'clock (8:00) A.M. to five o'clock (5:00) P.M.
4. Immediate Danger: No employee shall thaw a freeze-up in an owner line unless such freeze-up constitutes an immediate danger to the public health and safety.
5. City Approval Required To Thaw City Line: No one other than an employee shall work on or thaw any City lines without the prior written approval of the City Clerk-Treasurer or his designee.
6. Means Of Thawing: City lines shall be thawed by electrical means primarily.
C. Response To Emergency Situation: City employees shall respond to an emergency situation such as a broken service line or main line as soon as possible at any hour notified.
D. City To Furnish Regular, Uninterrupted Service:
1. The City will use reasonable diligence to furnish a regular and uninterrupted supply of water; however, interruptions or partial interruptions may occur or service may be curtailed or fail as a result of circumstances beyond the control of the City, such as public enemies, accidents, strikes, legal processes, governmental restrictions, water shortages, breakdown or damages to transmission or distribution facilities of the City, repairs or changes in the City's transmission or distribution facilities.
2. Customers whose service requirements exceed those normally provided shall advise the City and contract for additional facilities as may be required. The City does not, under any circumstances, contract or commit to provide complete reliability. (Ord. 1985-01, 3-5-1985)
8-1-16: PRIVATE WATER SUPPLY:
A. Abandonment Of Wells And Connection To City Water System: All premises within the City boundaries utilizing private wells for domestic, commercial, industrial, and sanitary purposes (except for nonpotable usage not entering the City sewer system) shall abandon such private water system and connect to the City water system

(except for those premises which are annexed which shall be governed under subsections B and C as set forth below) under one of the following conditions, whichever first occurs:
1. Such systems on property having a boundary abutting on or within one hundred fifty feet (150') of public right of way containing a City water line must be abandoned and the service line be connected to the City water line. No private water system can be utilized to provide water for domestic, commercial, industrial, sanitary or other purposes where the City system is so available; or
2. Such systems on property having a boundary further than one hundred fifty feet (150') from a public right of way containing a City water line may continue to be used

until such time as the City Council determines that the use thereof is detrimental to the health, safety, and public welfare of occupiers of the area under the jurisdiction of the City, or that the use thereof violates regulations administrated by the New Mexico Environmental Improvement Division (EID). After such determination is made, the owner, agent or occupant of the property served by the private water system shall have a reasonable time, not to exceed six (6) months, within which to connect with the City system. The owner, agent or occupant shall pay a proportionate share of the cost of the City system extensions which may be required.

B. Annexed Land: Owners of land outside the City desiring to annex their land voluntarily into the City or owners of land outside the City which land is involuntarily annexed into the City may contract with the City to retain their private water supply at their own expense if the City Council authorizes such or if the Municipal Boundary Commission or Board of Arbitration so rules. In that event, functioning private water systems which exist on annexed premises shall be permitted to continue in use so long as such system is approved by, and continues to be approved by, the EID or any successor-in=interest to the EID and the owner of such system shall not be required to connect with the City water system unless the City Council determines that the use thereof is detrimental to the health, safety, and public welfare of occupiers of the area under the jurisdiction of the City, or that the use thereof violates regulations administrated by the New Mexico Environmental Improvement Division (EID). After such determination is made, the owner, agent or occupant of the property served by the private water system shall have a reasonable time, not to exceed six (6) months, within which to connect with the City system. The owner, agent or occupant shall

pay a proportionate share of the cost of the City system extensions which may be required.

C. City Line Extensions: Whenever an extension of the City water line is required to serve a subdivider as defined in the City Subdivision Ordinance or an applicant, or group of applicants, extension will be made under the following terms and conditions by and at the expense of the applicant. (Ord. 1985-01, 3-5-1985)

1. Sizing; Costs: All line extensions shall be sized to provide adequate domestic and fire protection service, to meet requirements for fire protection. In the event that the City's Water Master Plan requires a larger line size than is required to serve the applicant's needs, the applicant will not be required to absorb the difference in investment between the applicant's required line size and the line size required by the plan; but in no event shall the extension costs to applicant be based on lines smaller than those needed for applicant's domestic and fire service requirements. Normal minimum distribution line size for adequate fire protection is eight inch (8") diameter. The cost of distribution facilities to be charged to the applicant shall be those for eight inch (8") diameter facilities or that size which is required to serve domestic and fire needs whichever is greater. The City shall be the sole judge of proper line sizing in any new construction and shall be the sole judge of the line size cost to the applicant. (Ord. 1987-15, 8-4-1987)

2. Payment In Advance: The investment in the line extension required to serve the applicant's domestic and fire protection requirements as specified by subsection C1 of this Section will be paid in total in advance by the applicant requesting the line extension.

3. Rights Of Way And Easements: All lines will be constructed in existing public roads, streets, City-owned land, alleys, or easements. The applicant shall furnish such rights of way as are in the form of a duly executed easement without charge to the City over property owned by said applicant and shall assist the City in securing other rights of way necessary to provide service over property not owned by said applicant.

4. Special Conditions; Additional Cost: Special conditions which affect the furnishing of water service to an applicant or group of applicants such as elevation, terrain, volume of water available in existing main, and other conditions resulting in increased costs to the City in providing water service shall be taken into consideration

by the City and the cost thereof shall be added to the tapping fee. (Ord. 1985-01, 3-5-1985)

8-1-17: METERS:

A. Location:

1. City To Specify:

a. Customer Provide Point Of Delivery Information: The City will specify the meter location and point of delivery to any premises, at the curb, property line, alley or inside the premises and the City shall be provided exact information locating the point of delivery before any piping of customer's system has been started. If such information is not provided by customers in writing, changes in piping installation may result and the expense of which the City shall not be held liable in any way and will not assume any responsibility and the customer shall be liable therefor.

b. New Construction: All new construction will have meters placed within the premises with a stop cock and necessary appurtenances at the property line at the subdivider or owner's expense. Repair and replacement of the meter will be at City's expense.

2. Multiple Meters At One Location: When a building houses more than one unit requiring separate meters, all the meters shall be grouped adjacent to each other and must be individually numbered and identified according to the units served or be located at a specified location outside each unit.

3. Relocation: Customer's meter location and connecting yard line will be relocated by customer at his expense when a water main is installed in a public right of way which abuts customer's property in order to provide service from the nearest water main installed in public right of way. This will only be required when the project is undertaken to improve the customer's water service or to eliminate water mains on private easements.

B. Metering:

1. Meters Furnished By City At Cost Of Customer: All meters used in connection with metered service shall be furnished (at the cost of the customer) and maintained by the City.

2. Testing Of Meters By City: The City may, at its option, test meters at any time as often as it desires.

3. Meter Reading: Meters will be read monthly; provided, however, that when snow, ice, or other justifiable problems cause one or more consecutive meter readings to be missed, the City may bill the customer on the estimated consumption and the difference adjusted when the meter is again read. The basis for this estimate shall be the normal consumption for corresponding periods in the preceding year or consumption of preceding months. At the first reading, subsequent to the nonreading, the bill will be computed by multiplying blocks of the rate by the number of months for which the meter reading covers, then computed in accordance with the applicable rate adjusted with the foregoing provisions. Any minimum bills paid in the period for which the meter reading covers shall be credited to the total amount of the bill. (Ord. 1985-01, 3-5-1985)

8-1-18: RESPONSIBILITY FOR EQUIPMENT USED IN SUPPLYING SERVICE:

A. Responsibility For City: The City will design, own, operate and maintain the complete water system up to the point of delivery and the City shall also provide the meter and installation.

B. Responsibility Of Customer:
1. The customer shall install, own and maintain all facilities beyond the point of delivery. The customer shall install all service lines from the main line including the meter yoke.
2. The customer must exercise due care for the protection of the property of the City on the customer's premises.
3. The customer agrees in accepting service, that no one except the employees of the City shall be allowed to make internal or external adjustments of any meter or any other piece of apparatus which is the property of the City.
4. Facilities or equipment necessary for any special requirements shall be installed and maintained by and at the expense of the customer. No facilities or special equipment shall be installed or operated in a manner injurious to the system. (Ord. 1985-01, 3-5-1985)

8-1-19: SERVICE CONNECTION:
A. Pressure Zones: A normal pressure within the range of thirty five (35) to one hundred twenty five (125) pounds can ordinarily be made available in areas contiguous to existing lines and at the pressures indicated for normal operations within established pressure zones. Where applications for service are received which would involve service to elevations either above or below the established elevation, special engineering and economic studies may be required which could result in other equipment requirements to provide such service. All circumstances will be taken into account in determining the feasibility of rendering service and where feasible the extensions will be made subject to the provisions outlined in Section 8-1-16, or subsections F and G of this Section.
B. Stop Valve: The customer shall install a stop and waste cock, or equivalent, on his yard line in order that he can control the water flow in his entire water system. Such valve shall be located in an accessible place for operation by the customer.
C. Service Pipe Provided By City:
1. The City shall furnish at its own expense, for the purpose of connecting its distribution system to the customer's premises, the service pipe from its main to and including the curb stop or water meter at or adjacent to the customer's property line. Maximum length of pipe provided by the City shall not exceed more than one street width of fifty feet (50'), unless property served is considered to be a subdivision as outlined in subsection 8-1-16C of this Chapter, and in that event, all extensions shall be at the cost of the subdivider.
2. A qualified contractor employed by the customer shall perform all necessary trenching, backfilling, tapping, and installation of the pipe, meter and meter box at the customer's expense and under the supervision of the City Engineer. The customer shall be assessed for the repair of the street surface which was disturbed in connection with the water system.
D. Fire Protection Service:
1. The entire cost of an installation required for customer fire protection service, service under Section 8-1-22 of this Chapter, standby service or irrigation service, shall be borne by the customer.

2. The monthly minimum charge shall be required by contract pursuant to subsection 8-1-6B of this Chapter, to cover normal customer accounting costs plus anticipated operating and maintenance cost for all City facilities required plus a reasonable capacity charge for off-site water facilities held in reserve for fire use on demand of the customer.
3. An approved backflow prevention device shall be installed by the customer in his fire line installation.
E. Cross-Connections: No cross-connection with any other source of water shall be

made to a customer's piping, which is connected to City lines.

F. Water Pressure:

1. Low: Where the normal water pressure is determined by the customer to be less than his requirements, the customer shall install a booster pump and pressure storage tank, the design for any such installation, including an approved backflow preventer, shall be submitted to the City for approval, prior to any construction.

2. High: Where the normal water pressure is determined by the customer to be greater than his requirements, the customer shall install an approved, adjustable pressure regulating device in his piping system.

G. Compliance With State Plumbing Code: All piping and plumbing installations made by the customer or for which the customer is responsible shall conform with the Plumbing Code of the State and all other applicable codes or regulations. (Ord. 1985-01, 3-5-1985)

8-1-20: WATER SYSTEM DESIGN CRITERIA: There is hereby adopted the following Exhibit A, Design Standards for water line construction, reconstruction or replacement which must be followed by all persons seeking to connect to the Municipal water systems: (Ord. 1987-15, 8-4-1987; amd. 2000 Code) (see following page)

EXHIBIT A, Water Facilities Construction Standards prepared for the City by Molzen-Corbin & Associates.

SECTION 110

WATER SYSTEM DESIGN CRITERIA

This Section presents the criteria, standards, and regulations related to the design of water distribution systems for general development service. It does not cover the criteria necessary for design of major transmission lines, wells, pumping facilities or reservoirs. The material is directed to the competent design professional and is not intended to be a detailed design handbook. Criteria and standards presented are those determined to be the minimum acceptable values necessary to result in system designs having satisfactory functional characteristics, durability, and operational suitability. It is expected that the designer will strive for the best design to suit the circumstances involved, and that designs will reflect sound professional judgment at all times.

110.1 Governing Regulations

Ordinances and policies related to the design and operation of domestic water systems include the following:

1. Subdivision Ordinance
2. Water and Sewer Rates

110.2 Water System Design Criteria

110.2.1 General Requirements

110.2.1.1 In calculating line sizes for main loop lines, the future development of the surrounding area will be considered and addressed in the report.

110.2.1.2 Domestic water design shall conform in size, location, and arrangement to adopted plans. Governing plans may include, but are not limited to, the approved area plan and City master plans. The City should be consulted for information regarding applicable plans for areas under design consideration.

110.2.1.3 Pressure zone boundaries must be considered in the design of all systems.

110.2.1.4 Location of lines must be according to Primary Utility locations in Exhibit 110-1. Deviations will require approval of the City.

110.2.2 Sizing requirements in single-family and duplex developments are as follows:

a. 6 inches minimum.

b. An 8-inch line is required if loop lines are not provided at a maximum interval of 1,200 feet.
c. Minimum 6-inch line to any fire hydrant.
d. Fire protection may require larger sizing.
e. Design flow rates for subdivision line sizing are as follows:
Average Maximum
Daily Hourly
(1) Single-family dwellings 425 gpd 1.8 gpm 1/2 acre and less
Greater than 1/2 acre 425 gpd 3.3 gpm
(2) Fire flow - See Section 110.6.1.6
(3) Commercial - Commercial water flow rates are highly variable. They will be considered on an individual basis by the designer in his report.
110.2.3 Sizing requirements for industrial/commercial and multi-family developments are as follows:
(see following page)
City of Sunland Park
R /W
STREET LENT and/or POWIR PO /E7
PROPERTY LINE
PROPERTY 2•MN. I0 C.
ALTERNATE FOR ALL OTHER UTILITIES
4'
NerAM•A W
GAS- 2' MIN. STORM SEWER
COVER 4' MIN. COVER
SAN TART SEWER WATER DISTRIBUTION 5' WPC COVER
4' MIN. COVER
T'A II
lJ
1o35 VARIABLE
SEE NOTE I
SEE NOTE 2
N or W
NOTES
I FOR SAN TART SEWER AND/OR WATERLINES GREATER THAN NE. IN DiAMETER, UTILITY LOCATIONS OUST BE ADJUSTED FCR 10
MINIMUM SEPARATOR OUTSIDE TO OUTSIDE BETWEEN SEWER ARO WATER LINES, IN WHICH CASE THE SANITARY SEWER WILL BE RELOCATED TO THE SOL/111 OR EAST.
2 • MNIMUM OF 6' SEPARATION BETAKEN WATERLINE AND TELEPHONE, ELECTRIC OR CABLE TV LINES IS REOuiR10. • 2' SEPARATOR IS ALLOWED BETWEEN WATERLINE AND MANHOLES FOR THESE UTILITIES.
CITY OF SUNLAND PARK
PRIMARY UTILITY
LOCATIONS IN STREETS
EXHIBIT 110-1
TELEPHONE-SO COV ER •ELECTRIC• 2.5' RN COV -CABLE TV.20•MINCOV
NOTES Contd.
S. STRAY ADHERENCE TO THESE LOCATIONS MAT NOT ALWAYS 85 PRACTICAL; LOCATIONS WILL BE RESOLVED BETWEEN
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10'
S or E
8-1-20 8-1-20
a. Typical 8 inches minimum.

b. Fire protection may require larger sizing. Determination is made by the City.

110.3 Alignment/Proximity To Other Utilities

110.3.1 The main lines are to be located within public right of way except as noted below, and aligned in accordance with the Primary Utility locations of Exhibit 110-1. Water lines must be located so they can be maintained without disturbing any sidewalk, curb, gutter or any other utility. For lines within streets, the construction trench is required to be contained totally within the paved roadway.

110.3.2 If circumstances require location of water lines in other than the location established by the Primary Utility locations, written approval of the City and the utilities normally expected to occupy the revised location must be obtained.

Main lines may be located outside public right of way only with prior written approval of the City and only within appropriate easements.

110.3.3 If not in public right of way, the distribution line must be located as follows:

a. In a paved, permanent access easement, including an easement for the water line, or

b. In a planned green space with access suitable for maintenance equipment and within an appropriate easement.

c. If 1 or 2 above is impossible because of prior platting, the location will be handled as a special case.

d. A permanent easement must be granted for the exclusive use of water and sanitary sewer. A minimum width easement of 20 feet is required for a single utility and 25 feet for water and sewer, both within the same easement.

e. In private streets, Primary Utility locations apply where possible.

110.4 Valvinq (See Standard Detail S200-110.41W)

110.4.1 Valve Placement.

110.4.1.1 Spacing shall be 1,200 feet maximum between in-line valves for lines 14 inches or smaller.

110.4.1.2 At the intersection of water lines, all but one line must be valved.

110.4.1.3 Fire hydrant legs must be valved on lines 10 inches in diameter and larger.

110.4.1.4 The system valving must be arranged so that lines may be shut down with a minimum number of valves and affecting the minimum service area. Valving of the ultimate system looping must be such that no break will disrupt service beyond the next valve location. System valving design should assure that only the immediate area where the break occurs will suffer disruption of water supply.

110.4.1.5 Valve Location. Valves shall be located as shown on the improvement plans. Valves for pressure connections of branches to existing water lines will necessarily be adjacent to the existing line.

110.4.1.6 Valve Types. Valves shall be AWWA C500 NRS gate valves.

110.4.1.7 Valve Sizing. Valving must be line sized. Special tapping valves shall be used with tapping sleeves.

110.4.1.8 Air Relief Valves (Standard Detail S200-110.418W). Air relief valves will be provided as determined by the designer and approved by the City.

110.4.1.9 Pressure Reducing Stations. The City determines the need for pressure reducing stations, their location, and the need for reduction of valve sizing. Station design will generally be in conformance with Standard Details S200-110.419W-A & B. The developer must provide any pressure reducing stations required for his subdivision.

Service Lines and Meters

The metered service line is public through the tailpiece installed on the private side of the meter. Normally, the tailpiece extends to the right-of-way line in accordance with Standard Detail S200-110.51W.

110.5.2 Sizing of the service line and meter is the responsibility of the requesting party. The City will, upon request, provide information relative to the flow characteristics of the various available metered sizes. However, single-family dwelling units will generally utilize a 5/8" x 3/4" meter.

110.5.3 The public portion of the service line including the setter and box may be installed by either of two methods:

110.5.3.1 The City will make the installations subsequent to formal application and payment of all appropriate charges. If so desired, and appropriate, the City will also install the meter at this time.

110.5.3.2 An approved contractor may install the service line and/or meter box as part of the subdivision development. This method requires an approved set of construction plans showing service line and/or meter box installation. The water mains and service lines must be completed, including flushing and disinfection, and accepted formally in writing before the City will install meters. In addition, unless special agreements for phasing have been made, the entire subdivision has to be formally accepted in writing by the City before the City will install a meter. Upon completion and acceptance of the project, the City will install the meter subsequent to formal application and payment of all appropriate charges.

110.5.4 Typically meters 2 inches and smaller are located within the public right of way behind the street curb.

110.5.5 Meters 3 inches and larger require a permanent easement on the landowner's property.

110.5.6 Meters for any installation may only be installed by the City subsequent to formal application and payment of all appropriate charges.

110.5.7 All dwelling units must be individually metered.

 8-1-20

110.6 Fire Hydrant Protection

110.6.1 General Information

110.6.1.1 Sunland Park Fire Department experience, National Fire Codes, Fire Insurance regulations and Water Works practices provide the hydrant criteria which is used to determine required protection.

110.6.1.2 Sunland Park's fire prevention policies are required to:

a. Attain adequate fire protection of life and property.

b. Achieve orderly development of the fire hydrant protection system.

c. Set forth guidelines and rules for development of a fire hydrant system.

110.6.1.3 Fire hydrants are generally installed on mains when water lines are extended according to spacing criteria that varies according to proposed land use adjacent to the water line. These hydrants may have to be supplemented with additional hydrants when actual development takes place. Cases also exist where water lines have been extended through undeveloped areas or unplatted land, and hydrants were not installed at the time of water line extension. Necessary hydrants must be installed at the time of adjacent development.

110.6.1.4 Fire hydrants are located within public right of way where possible. The type, layout, and size of development may dictate location of fire hydrants on private property.

110.6.1.5 Each development must be analyzed for fire hydrant needs. Fire hydrant requirements vary with the size and layout of the buildings, building design and construction materials, and access from the proximity to the public right of way.
110.6.1.6 All required fire hydrants in residential development shall provide proper fire flow (minimum of 750 gpm at minimum 20 psi residual pressure from the 4-inch outlet). Water system design shall provide minimum fire flow in residential areas of 750 gpm with minimum 20 psi residual each from any two adjacent fire hydrants in the development (total fire flow of
City of Sunland Park
8-1-20 8-1-20
1,500 gpm with minimum 20 psi residual). High density residential developments (8 units per acre or more), commercial developments, apartment developments, and industrial developments will require special studies to determine fire flow requirements.
110.6.1.7 Hydrants shall be installed in accordance with the City's standards and policies and Standard Detail S200-110.617W and shall be available for use prior to the beginning of development building construction.
110.6.2 General Fire Hydrant Location Requirements for Fire Protection.
110.6.2.1 Definitions:
RESIDENTIAL: Single-family and two-family dwellings, duplexes, triplexes, and mobile homes.
LIGHT USE COMMERCIAL: Light industrial and shopping centers under 18,000 square feet, and apartments over 4 units (includes townhouses).
HEAVY USE COMMERCIAL: Large industrial complexes, major shopping centers, and apartment complexes over 18,000 square feet.
110.6.2.2 Hydrant Spacing Requirements.
a. Development Areas (Street Measurement, Bonnet to Bonnet
Residential 500 feet maximum between hydrants
Light Commercial 500 feet maximum between hydrants Heavy Commercial 300 feet maximum between hydrants
In residential areas and mobile home parks, there shall be one hydrant at each street intersection with intermediate hydrants so that no one home is more than 275 feet from a hydrant.
City of Sunland Park
8-1-20 8-1-20
b. New and Existing Individual Buildings in Sparsely Developed Areas
Distance is measured as the fire equipment travels from the fire hydrant to the structure. All distances given are maximum.
Residential 275 feet
Light Commercial 300 feet to the farthest portion of the building
Heavy Commercial 300 feet to the farthest portion of the building
110.6.3 Hydrants shall be installed at the developer's expense including:
a. Extension of City-owned water lines in accordance with City policies.
b. Addition of fire hydrants to existing water lines.
c. Private fire lines.
d. All costs of incidental items (e.g., removal and replacement of existing improvements).
110.7 Materials
110.7.1 All construction shall conform to the Standard Details and the
110.7.2 Subdivision Regulations unless otherwise approved by the
City

All construction shall conform to the New Mexico Standard Specifications for Public Works Construction, as modified herein, unless otherwise approved by the City.
110.7.3 Pipe (push on type only).

a. Polyvinylchloride (PVC) per AWWA C-900.
b. Ductile Iron Pipe (DIP).
c. Cast Iron Pipe (CIP).
City of Sunland Park
8-1-20 8-1-20
110.7.4 Valves and Valve Boxes and Fire Hydrant.
a. Valves shall be installed as per Standard Detail S200-110.41W.
b. Gate Valve - per AWWA C500 for buried service, nonrising stem double disc, bronze trim.
c. Valve Box - traffic type, cast iron, per Standard Details.
d. Fire Hydrants - per AWWA C502 traffic type, 51/4-inch main valve size, 2 - 21/2-inch and 1 - 41/2-inch nozzles with National Standard fire hose threads and nozzle caps. Chrome yellow. Mueller Centurion fire hydrants shall be used exclusively in the City of Sunland Park.
110.7.5 Miscellaneous Appurtenances.
a. Water Line Fittings - cast or ductile iron.
Concrete Blocking - See Standard Detail S200-110.75W.
b. Control Valves - pressure reducing, pressure sustaining, air and vacuum release, etc. Shall be Clayton, Golden Anderson Industries or Engineer approved equivalent.
110.8 Installation Methods
1. Trenching and backfilling per standard specifications or pipe manufacturer's recommendation or Standard Details S200-109.323SS.
2. Compaction Testing - one test every 500 feet minimum. Backfill in road will require compaction tests every 200 feet.
110.9 Testing and Disinfection of Water Lines
1. Testing - Pressure test and leakage test per AWWA C600.
2. Disinfection per AWWA C601.
110.10 In the case of conflict or discrepancy between these regulations, Standard Details, and NMSSPWC, these documents will govern in the following order of priority:
City of Sunland Park
8-1-20 8-1-20
1. Subdivision Regulations
2. Standard Details
3. NMSSPWC
4. Other reference specifications (Ord. 1987-15, 8-4-1987)
City of Sunland Park
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STANDARD TRENCHING DETAILS REVISIONS
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CITY OF SUNLAND PARK
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VALVE SUPPORT TABLE

Veins	Slit	A	B	C	0
	10"	20"	4"	e	
65	12"	22"	4"	g-	
10"	14-	24"		a-	
le	I6"	26"	4"	6"	

COVER
VALVE POSITION INDICATOR
FOR GRAVEL 6 DIRT
PAVENENT(FLUSN W/COLLARI
.^ey
EXTENSION SHAFT
VALVE SOX, CAST IRON 514.0 MIN BARREL, SLIP 1.2 TYPE IN TRAFFIC AREAS. !ir
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PIPE LINE
I CU. FT. CONC. DLOCK
CP EA.VALVE 4"4:1 LARGER,
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CITY OF SUNLAND PARK
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SECTION B-B
PLAN
SECTION A-A
GENERAL. NOTES:
I . ALL PIPING AND FITTINGS SHALL BE SCH. 40, THREADED GALIN IRON.
S. USE STANDARD C.I. NH RING 4M1D COVER WARNED 'RATER"
3. FOR FUTURE AOJUSTUENT OF NH FRANC TO PAVEMENT GA•DE ADD ADJUSTMENT RINGS,
CONSTRUCTION NOTES:
A. ASPHALT PAVING.

S. USE CONC. COLLAR IN ALL AREAS.
C. AIR RELEASE VALVE.
D. GATE VALVE
E. AIR DISCHARGE CONNECTION.
F. TEE.
G. NIPPLE FOR VENT AND HOSE CONNECTJCN, N. SW ELBOW.
J. NIPPLE.
IL 24- I.D. Hi CA. C W R DIPPED IN COAL TAR ENAMEL OA COVED WITH POLYMERIC COATING /WHEELING PLASTICOTE, mANUFACTONED WHEELING CORRUGATING COMPANY OR EOUIVALENT.13 MILS THICK WIN. MEETING REDIJIREvEHTS SET BY •.A.S.H.T.O. N SAW.
L. 2"DIA. PiPE,vARIABLE LENGTH.
M. TAPPING SAM/L(04 C.I. CR DI. pip(THREADED OUTLET FOR CONC. CYL. PIPE.
N. WATER MAIN 0. I CU. YO. GRAVEL.
REVISIONS
CITY OF SUNLAND PARK
WATER AIR
RELEASE VALVE
DETAIL NO. 5200-110.418W
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GENERAL NOTES:
I. SIZE OF P R.V. TO SC DETERMINED ST
DEVELOPER AND APPROVED BY VILLAGE, I. SPECIFIC D1MENsioNS TO SE PROVIDED IT
ENGINEER,
3. ENCLOSURE TO OE 4' DIA. 51m TYPE -C. FOR P.A.V3 TNAC, SIZE 14..,S12E IC AND LARGER PR.V.S TO IL PLACED IN CONC. BM DETAILS TO RE PROVIDED IT ENGINEER,
4, ICE 5200-110 411 W-1.
CONSTRUCTION NOTES:
A. N.J.
S. FL.
C. NIGM FLOW P.R.Y. (FL.-FL.)
GROUT RETwEEN ALL PIPES AND WALLS,
E. GATE VALVE AND SOK tn.•ICJ]
F. LOW FLOW P.R.V.
G. CONNECTING PIECE.
PLAN
TYPICAL LAYOUT
N.T.S.
REVISIONS
CITY OF SUNLAND PARK
WATER PRESSURE REDUCING STATION
DETAIL NO. S200-110.419W—A
TYPICAL LAYOUT
N.T.S.
ELEVATION
CONSTRUCTION NOTES:
A. PRECAST CONCRETE MM COVER

I. CONCRETE COLLAR.
C. SURFACE COURSE.
D. RASE COURSE.
E. GROUT SETwEEN PIPES AND WALL.
F. WRAP BOTTOM OF P kV. WITH 30 IL FELT.
G. ONE NALF TO. COURSE STONE (APPROX.
3.)(1.5‘).
H. G. SQUARE FLOOR DR•IIN,
J. 2: SLEEVE FOR CONDUIT.
K. I- CONNECTIONS WITH PETCOCKS FOR
PRESSURE MEASURING DEVICES.
L. P.R.V. irL•rL).
ENCLOSURE
REVISIONS -
CITY OF SUNLAND PARK
WATER PRESSURE REDUCING STATION
DETAIL NO. S200-110.419W-B
ROADWAY
SHOULDER
O
16 GA. C.M.C. BOX OR CONC. crt. METER BOX
MUELLER OPPER METER YOKE TYPE H-14116 W/STOP & TIE
—BAR O.A.E. FOR 5/8" 5/4" METERS, If HIGH, O.A.E.
PLUG
WATER NAPA
DOUBLE BRONZE STRAP SERVICE CLAMP FORA.C. WATER MAIN, RARER SERIES 113.0, O.A.E.
DOUBLE BRONZE STRAP SERVICE CLAMP FOR PLASTIC WATER MAINBARER SERIES 193-0, O.A.E.E
DUCTILE BODY W/DOUBLE STAINLESS STEEL STRAPS FOR 0.I.P. WATER MAIN FORD SERIES FS 202 0.A.E.
NOM,
POLYETHYLENE PLASTIC SERVICE LINE, SNAKE IN TRENCH
MUELLER H-13005 CORP, STOP 0.A.E.
MUELLER METER BOX COVER REG. PAT TERN (NON TRAFFIC) TYPE H-10016 0.A.E,
METER SIZE AS REOuIRED.
--- 6" CF Ve Pr GRAVEL
0 li
SERVICE CONNECTION & METER BOX
N. T. S.
NOTE iNS•ALL CuRe STOP AT BACK Of CURB ON LOCATIONS WHERE STREETS RAVE STANDARD OR mOuNT•IIL 6 REVISIONS CURBS. INSTALL STOP IN METER BOX UPSTREAM Of METER IN ALL OTHER CASES.
CITY OF SUNLAND PARK
SERVICE CONNECTION
METER BOX
DETAIL NO. S200-110.51W
MUELLER CENTURION FIRE HYDRANT
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v E RC:1R OR EE OL LARGER. MAINLINE IB 10" IN DIAMETER .1 0
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BLOCKING 10 AND IN:LUD,NG REVISIONS
MAIN LINE TEE

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15.15.4" CONCRETE
USE FLANGED PIPE 6 FITTING_
CITY OF SUNLAND PARK
FIRE HYDRANT
DETAIL
DETAIL NO. S200-110.617W
101
MI_ PIP 011110
FIRE HYDRANT DETAIL
N.T.S.
N.
6" MINIMUM
MINIMUM 120218' CONCRETE '•• eLoco,
24. SOUARE
5 1/4 NrOPANT SEE
—COVER HARKED "WATER"
...r.NATURAL CIRCOND OR AMMO; w At X)
PAVEMENT 12" THICK CONCRETE COLLAR
III
CAST IRON VALVE BOX
OA BARREL 5 t/4"
6 VALVE
M.J. OR SLIP-ON BRICKS UNDER BOX
FITTINGS
FINISHED SURFACE
MINIMUM COVER
TOP OF PIPE
MAIN WATER LINE

ELEVATION ELEVATION ELEVATION
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CONCRETE BLOCKING DETAILS
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CONSTRUCTION NOTF
A. UNDISTURBED EARTH.
B. O. D. OF PIPE 4. a'. O. a 0. OF CAP OR PLUG, MIN. 12'xlZ
REVISIONS
CITY OF SUNLAND PARK
CONCRETE. BLOCKING
DETAILS
DETAIL NO. 5200-110.75W
•
8-1-21 8-1-22
8-1-21: FIRE HYDRANTS:
A. Water Use For Fire Protection: In order to assure proper operation of fire hydrants, no water shall be drawn through any fire hydrant for any other purposes than fire protection, except as provided by special permit from the City.
B. Inadequate Main Line: In the event the City's main line is inadequate to provide fire hydrant service as required by the customer, Section 8-1-16 of this Chapter shall govern provision of such service.
C. Providing Fire Hydrant: The City shall provide the fire hydrant, however, in subdivisions approved by the City after the effective date hereof, the fire hydrants shall be provided and installed by the developer or subdivider. (Ord. 1985-01, 3-5-1985)
8-1-22: FIRE PROTECTION SERVICE:
A. Request For Private Service: A customer desiring private fire protection service, in addition to regular water service, shall make such request in writing to the City prior to commitment of the project to construction.
B. Separate Piping System; Meter Pit: If the water main facilities are available for such service as determined by the City, the customer will install, at his own expense, a complete and separate piping system extending and connecting to the City's facilities. This will include a meter pit of sufficient size to house the necessary valves, meters, piping, etc., all of which shall be as specified by the City Engineer. The location of this pit will be determined by the City Engineer.
C. Metering Furnished By City: The City will furnish the necessary metering at the expense of the customer.
D. Inadequate City Mains: In the event the City's water mains are inadequate to provide the requested fire protection service or if extension of a main is required, Section 8-1-16 of this Chapter shall govern provision of such service. (Ord. 1985-01, 3-5-1985)
City of Sunland Park
8-1-23 8-1-25
8-1-23: LARGE USERS OF WATER:
A. Consult City For Advice: Before proceeding with the purchase of any equipment which will necessitate the use of large quantities of water within short periods of time, the City shall be consulted for advice as to the best method of installation and for information concerning the conditions under which the water will be supplied to the premises of the customer.
B. City Right To Impose Limitations: The City reserves the right to limit the size of service connections or openings through which its service is furnished for filling storage tanks, hydraulic equipment, private fire service, irrigation, or other classes of service capable of drawing relatively large quantities of water and thereby causing undue fluctuations of pressures in portions of the City's system. (Ord. 1985-01, 3-5-1985)
8-1-24: WATER SERVICE TO SERIOUSLY ILL PERSONS: The City

will not terminate water service to any residence where a seriously ill person resides; provided, that:

A. Letter Regarding Health Of Customer: A letter from a practitioner of the healing arts stating that discontinuance of service might endanger that person's life or health is filed with the City and such letter is updated and filed with the City every sixty (60) days thereafter; and

B. Affidavit Regarding Income Of Customer: An affidavit in a form approved by the City is filed with the City by the customer stating that he is without income or property sufficient to pay water charges and no one in the residence has sufficient income or property to do so and said affidavit is updated and filed with the City every sixty (60) days thereafter. (Ord. 1985-01, 3-5-1985; amd. 2000 Code)

8-1-25: PENALTY: In addition to, and not exclusive of, any other penalties herein, any violation of this Chapter shall be punishable as provided in Section 1-4-1 of this Code. Every day that any such violation continues constitutes a separate offense. (Ord. 1985-01, 3-5-1985; amd. 2000 Code)

CHAPTER 2

WASTEWATER AND SEWAGE DISPOSAL SYSTEM

SECTION:

8-2- 1: 8-2- 2: 8-2- 3: 8-2- 4: 8-2- 5: 8-2- 6: 8-2- 7: 8-2- 8: 8-2- 9: 8-2-10: 8-2-11: 8-2-12: 8-2-13: 8-2-14: 8-2-15: 8-2-16: 8-2-17:

Title
Definitions
Unpolluted Discharges To Sewers Prohibited Drainage Discharge
Untreated Discharges Prohibited
Unauthorized Disposal; Privies And Septic Tanks Toilet Facility And Service Connections Extraterritorial Hookups
Private Sewage Disposal
Building Sewers
Use Of Public Sewers
User Fees
Sewer Line Extensions
Sanitary Sewer Design Criteria
Access To Private Property For Inspection Incorporation Of Requirements Into Contract Penalties And Remedies

8-2-1: TITLE: The provisions of this Chapter shall be known as the SEWER USE ORDINANCE OF THE CITY OF SUNLAND PARK, NEW MEXICO. (Ord. 1985-14, 1-21-1986)

8-2-2: DEFINITIONS:

ASTM: The American Society for Testing Materials.

BOD (Denoting Biochemical Oxygen Demand): The quantity of oxygen utilized in the biochemical oxidation of organic matter by standard methods procedure in five (5) days at twenty degrees centigrade (20°C) expressed in milligrams per liter (mg/l).

BUILDING DRAIN: That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (5') outside the inner face of the building wall.

BUILDING SEWER: The extension from the building drain to the public sewer or other place of disposal.

COD (Denoting Chemical Oxygen Demand): The quantity of oxygen utilized in the chemical oxidation of organic and inorganic matter under standard laboratory procedure by the dichromate reflux method expressed in milligrams per liter.

CITY: The City of Sunland Park, New Mexico.

COMBINED SEWER: A sewer receiving both surface runoff and sewage.

GARBAGE: Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sale of produce.

HEALTH OFFICER: Any person or his authorized representative so appointed by the City or any New Mexico Environmental Improvement Agency representative charged with approval or inspection of public or private wastewater facilities.

INDUSTRIAL LIQUID WASTES: All waterborne solids, liquids or gaseous wastes resulting from any industrial manufacturing or food processing operation or process, or from the development of any natural resource or any mixture of these with water or domestic sewage as distinct from normal domestic sewage.

INTERFERENCE WITH ANY WASTEWATER FACILITY: Any condition or combination of conditions which cause degradation of the operational efficiency of a wastewater facility.

NATURAL OUTLET: Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

NORMAL DOMESTIC WASTEWATER: Waterborne wastes normally discharging from the sanitary conveniences of buildings, including apartment houses and hotels, office buildings, factories and institutions, free from storm surface water and industrial wastes. Normal domestic wastewater shall mean "normal" for the City of Sunland Park, New Mexico.

pH: The logarithm, to the base ten (10), of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

PERSON: Any individual, firm, company, political or governmental subdivision, association, society, corporation or group.

PROPERLY SHREDDED GARBAGE: The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1/2") in any dimension.

PUBLIC SEWER: A sewer in which all owners of abutting properties shall have equal rights and is controlled by public authority.

SANITARY SEWER: The public sewer portion of a wastewater facility which transports wastewater and to which storm, surface and ground water are not intentionally admitted.

SETTLEABLE SOLIDS: Those solids which settle during a preselected period of time expressed as milliliters per liter of sample.

SEWER: A pipe or conduit for carrying sewage.

SHALL; MAY: The word "shall" is mandatory; the word "may" is permissive.

SLUG: Any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty four (24) hour concentration or flow during normal operation.

STANDARD METHODS: The laboratory procedures set forth in the latest edition, at the time of analysis, of Standard Methods for the Examination of Water and Wastewater as prepared, approved and published jointly by the "American Public Health Association" and the "American Water Works Association" and the "Water Pollution Control Federation".

STORM SEWER: A sewer which carries storm and surface waters and drainage, but excludes wastewater and polluted industrial wastes.

SUPERINTENDENT: The Superintendent of the Wastewater Department of the City of Sunland Park, New Mexico or his authorized deputy, agent or representative.

SUSPENDED SOLIDS: Solids that either float on the surface of or are in suspension in water, sewage or other liquids and which are removable by laboratory filtering.

TRAP: A device for retaining sand, silt, grit, mineral material, petroleum solvent, grease or oil by gravity-differential separation from wastewater and of a design and capacity approved by the City.

UNPOLLUTED PROCESS WATER: Any water or waste containing none of the following: free of emulsified grease or oil; acid or alkali, phenols or other substances imparting taste and odor to receiving water; toxic substances in suspension, colloidal state or solution; and noxious or odorous gases.

WPCF: The Water Pollution Control Federation.

WASTEWATER: The used water of a community. Such used water may be a combination of the liquid and waterborne wastes from residences, commercial buildings, industrial plants and institutions.

WASTEWATER FACILITIES: The structures, equipment and processes required to transport and treat wastewater liquid and dispose of the effluent.

WASTEWATER TREATMENT FACILITIES: An arrangement of devices and structures for treating wastewater and sludge. Sometimes used as synonymous with waste treatment plant or wastewater treatment plant.

WATERCOURSE: A channel in which a flow of water occurs, either continuously or intermittently. (Ord. 1985-14, 1-21-1986; amd. 2000 Code)

8-2-3: UNPOLLUTED DISCHARGES TO SEWERS PROHIBITED: No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. (Ord. 1985-14, 1-21-1986)

8-2-4: DRAINAGE DISCHARGE: Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Superintendent, to a storm sewer or natural outlet. (Ord. 1985-14, 1-21-1986)

8-2-5: UNTREATED DISCHARGES PROHIBITED: It shall be unlawful to discharge to any natural outlet within the City or in any area under the jurisdiction of the City any sewage or wastewater or other polluted waters, except

where suitable treatment has been provided in accordance with subsequent provisions of this Chapter. (Ord. 1985-14, 1-21-1986)

8-2-6: UNAUTHORIZED DISPOSAL; PRIVIES AND SEPTIC TANKS: Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage. (Ord. 1985-14, 1-21-1986)

8-2-7: TOILET FACILITY AND SERVICE CONNECTIONS:

A. Mandatory Connection: The owner of all houses, buildings or properties used for human occupancy, employment, recreation or similar purposes situated within the City and abutting on any street, alley or right of way in which there is now located or may in the future be located a public sanitary sewer of the City is hereby required at his expense to install suitable toilet facilities therein, and in accordance with the provisions of this Chapter, within ninety (90) days after date of official notice to do so; provided, that such public sewer is within one hundred feet (100') of the property line.

B. Service Line Connection To Public Line:

1. The owner of such property shall extend or cause to be extended the owner's sewer service line from such toilet facilities and connect it to the service line provided by the City in the street.

2. The owner shall excavate a trench for placement of the service line and uncover the public line, backfill and compact the trench, and repave the surface. When no connecting outlet has been provided in the public collector line by the City, the City, at the owner's expense, will connect the service line to the public line.

3. When a connecting outlet has been provided by the City in the public collector line, the owner shall provide a connection into the public line and such connection shall be made only by a licensed plumber at the cost of the owner.

4. The owner at his option may request the City to make such connection and the City shall bill the owner for the cost and the owner shall pay the City therefor.

C. Repair And Maintenance By Owner; Permission From City:

1. The owner shall be responsible for the repair and maintenance of the sewer service line running from his toilet facilities to the connection with the City-owned collector line in the public way.

2. Should the owner find it necessary to clean out or expose the owner's sewer service line that lies within the public way in order to clear the service line of stoppages or otherwise maintain the service line, the owner shall excavate and uncover the service line in the public way, backfill and compact the trench and repave the surface at the owner's cost.

3. The owner shall not engage in any such maintenance or cleaning of the service line in the public way except upon prior notice to and approval by the Public Works Department of the City.

4. No backfilling and compacting of the trench or repaving of the surface of the street in which the owner's service line lies shall be done without prior notice to the Public Works Department and permission from the Public Works Department.

5. Any such backfilling, compacting and repaving of the surface of the street shall be done under the supervision and with the approval of the Public Works Department.

6. In the event the owner fails to properly perform such functions, the Public Works Department shall perform the functions and bill the owner the cost thereof. (Ord. 1993-06, 6-7-1993)

8-2-8: EXTRATERRITORIAL HOOKUPS: Residential, commercial and industrial properties situated outside the City limits may be connected via building sewers to available sewers or future sewers upon application and

agreement to abide by the provisions of this Chapter and upon approval of the City. (Ord. 1985-14, 1-21-1986)

8-2-9: PRIVATE SEWAGE DISPOSAL:

A. Permitted When Public Sewer Not Available: Where a public sanitary sewer is not available under the provisions of this Chapter, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this Chapter.

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B. Permit; Fee: 1 tj

1. Permit Required: Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the Superintendent.

2. Application For Permit: The application for such a permit shall be made on a form furnished by the City which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Superintendent.

3. Permit And Inspection Fee: A permit and inspection fee shall be paid to the City at the time the application is filed.

C. Inspection:

1. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent.

2. He shall be allowed to inspect the work at any state of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection and before any underground portions are covered.

3. The inspection shall be made within seventy two (72) hours of the receipt of notice by the Superintendent.

D. Design Requirements; Restrictions:

1. The type, capacities, location and layout of a private sewage disposal system shall comply with all requirements and recommendations of the Environmental Improvement Division of the State.

2. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than fifteen thousand (15,000) square feet.

3. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

E. Conversion To Public Sewer On Availability: At such time as a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public

sewer in compliance with this Chapter and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with clean soil, sand or gravel.

F. Operation; Maintenance: The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times at no expense to the City.

G. Chapter Not To Limit Reasonable Requirements of Health Officer: No statement contained in this Chapter shall be construed to interfere with any additional reasonable requirements that may be imposed by the appropriate health officer. (Ord. 1985-14, 1-21-1986)

8-2-10: BUILDING SEWERS:

A. Permit Required: No person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenances thereof without first obtaining a written permit from the Superintendent. (Ord. 1985-14, 1-21-1986)

B. Permit Classes; Applications; Fees:

1. Classes Of Permits: There shall be two (2) classes of building sewer permits: a) for residential and other service; and b) for service to establishments producing

industrial wastes.
2. Application For Permit: In either case, the owner or his agent shall make application on a special form furnished by the City. As a minimum, the application for the permit shall be in writing and shall contain the following information: a) name and address of applicant; b) name and address of owner of the premises where the connection is to be made and where drain or line is to be laid; c) location of the proposed connection, drain or sewer pipe; d) statement as to the type of connection and type of materials to be discharged into the sewer; e) statement as to whether the connection is to be made to the storm sewer or to the sanitary sewer. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Superintendent.
3. Permit And Inspection Fee: A permit and inspection fee in the sum of forty dollars ($40.00) for a residential, other or industrial sewer permit shall be paid to the City at the time the application is filed.

4. Permit Issuance: If the proposed connection does not violate any provision herein and does not violate any other ordinance or resolution of the City, the Superintendent shall issue a permit for such connection.
5. Permit Information; Conditions: Such permit shall contain all information required of the applicant and shall specify the type and kind of grease traps and sand traps to be used.
6. Tap Fee: At the time of granting the permit, the applicant shall pay a tap fee for connection to the sewer. This tap fee shall be separate and distinct from any sewer utility expansion charges called for by other governing ordinances. The amount of this tap fee shall be two hundred dollars ($200.00) which shall be the minimum tap fee and the City shall keep a record of time and materials and factor a thirty percent (30%) overhead charge. If the sum of time, materials and overhead exceeds two hundred dollars ($200.00), the applicant shall pay the excess. (Ord. 1985-14, 1-21-1986; amd. Ord. 1987-05, 5-19-1987; Ord. 1988-08, 7-6-1988)
C. Costs; Indemnification:
1. All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner.
2. The owner shall indemnify the City against any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer including, but not limited to, pavement replacement.
3. All connections to the City sewer system must be made by a licensed plumber, subject to the supervision, inspection and approval of the City Superintendent, and in compliance with the New Mexico Plumbing Code.
D. Separate Building Sewers Required: A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
E. Use Of Old Building Sewers: Old building sewers may be used in connection with new buildings only when they are found, on

examination and test by the Superintendent, to meet all requirements of this Chapter.
F. Design Requirements; Compliance With Codes: The size, slope, alignment, and materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the City and State.

G. Gravity Flow Or Lift: Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

H. Connection Of Storm Water, Drains: No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

I. Connection Procedures Generally: The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the City or the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and material must be approved by the Superintendent before installation.

J. Final Inspection: The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or his representative.

K. Safety And Protective Measures For Excavations: All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

L. Abandonment Of Connections: No person shall abandon any building connection without first obtaining a written permit therefor. Such building connection shall be effectively sealed with a vitrified clay stopper inserted in the bell of the sewer extending to the property line, which stopper shall be joined as directed by the Superintendent.

M. Digging Up Of Streets And Alleys; Permit: No person shall in any way interfere with the employees of the City in any discharge of their duties in the tapping of any sewer pipe, main or lateral. No person shall dig up or cause to be dug up any street or alley in the City for the purpose of connecting with the sewer system of the City, and no person shall connect with or tap into the sewer system of the City without first obtaining a permit, and no person having a permit shall dig up any portion of any street or alley of the City for the purpose of connecting with the sewer system of the City and thereafter fail or neglect to place the street or alley in its original condition. The Clerk-Treasurer shall assess the fee or fees required by City ordinance for the repair of the street surface which was disturbed in connecting to the sewer system.

N. Prohibition Against Depositing Wastes: No person shall deposit or permit to be deposited in any unsanitary manner upon public or private property within the City or within any area within the jurisdiction of the City any human or animal excrement wastes.

0. Prohibition Against Damaging System: No person shall maliciously, wilfully or negligently break, damage or destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the public sewer system. (Ord. 1985-14, 1-21-1986)

8-2-11: USE OF PUBLIC SEWERS:

A. Prohibited Discharges: No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer.

B. Prohibited Substances: No person shall discharge or cause to be discharged any of the following described liquids or wastes to any public sewers:
1. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.

2. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any wastewater facility, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the wastewater treatment works, including, but not limited to, cyanides in excess of two milligrams per liter (2 mg/l) as CN in the wastes as discharged to the public sewer.
3. Any herbicides and pesticides.
4. Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater facility.
5. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facility such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
6. Any amount of the following heavy metals:
Antimony Arsenic
Barium
Beryllium Bismuth Boron
Cadmium Chromium (Hexa)
Chromium (Tri)
Cobalt
Copper
Iron
Lead
Manganese Mercury Molybdenum
Nickel
Rhenium Selenium Silver
City of Sunland Park
8-2-11 8-2-11
Strontium Tellurium Tin
Uranylion Zinc
7. Dilution of toxic materials and heavy metals in lieu of removal not acceptable.
C. Discharges Subject To Regulation: No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm the wastewater facility or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the materials of construction of the sewers, nature and capacity of the wastewater facility, degree of treatability of wastes in the wastewater treatment works and other pertinent factors. The substances which must be considered include, but are not limited to, the following:
1. Any liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit (150°F) (65°C).
2. Any water or waste containing fats, grease, wax or oils, whether emulsified or not, in excess of one hundred milligrams per liter (100 mg/l) or containing substances which may solidify or become viscous at temperatures between thirty two (32) and one hundred fifty degrees Fahrenheit (150°F) (0 and 65°C).

3. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder larger than those normally manufactured and sold for residential and noncommercial use will not be installed without specific review and approval by the Superintendent.
4. Any waters or wastes containing strong acid, iron pickling wastes or concentrated plating solutions cannot be discharged to the wastewater facility unless completely neutralized and approved by the Superintendent for discharge.
5. Any waters or wastes containing reducing substances of an organic or inorganic nature, toxic or nontoxic, which exert an

immediate chlorine demand not be discharged into the wastewater facility if discharge of agents will prevent the achievement of an adequate chlorine residual in the effluent of the wastewater treatment works.
6. Any waters or wastes containing phenols or other taste- or odor-producing substances, in concentrations exceeding limits established by the Superintendent after treatment of the composite sewage, to meet the requirements of the State, Federal or other public agencies of jurisdiction for such discharge to the receiving waters.
7. Any radioactive wastes or isotopes of such half-life or concentrations as may exceed limits established by the Superintendent in compliance with applicable State and Federal regulations.
8. Any waters or wastes having a pH in excess of 9.5.
9. Materials which exert or cause:
a. Unusual concentrations of inert suspended solids (such as, but not limited to, fuller's earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to, sodium chlorine and sodium sulfate).
b. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
c. Unusual chemical oxygen demand, or biochemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the wastewater treatment works.
d. Slugs or shocks constituting an unusual volume of flow or concentration of wastes which will disturb the normal functioning of the wastewater facility.
10. Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment works employed, or are amenable to treatment only to such degree that the effluent cannot meet the requirements of agencies having jurisdiction over discharge to the receiving waters.

D. Superintendent's Discretion:
1. If any waters or wastes are discharged, or are proposed to be discharged, to the public sewers, which waters contain the substances or possess the characteristics enumerated in this Section, and which in the judgment of the Superintendent may have a deleterious effect upon the wastewater facilities, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:
a. Reject the wastes,
b. Require pretreatment to an acceptable condition for discharge to the public sewers, or
c. Require control over the quantities and rates of discharge.
2. If the Superintendent permits the pretreatment or equalization of waste flows, the designation and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and State and subject to the requirements of all applicable codes, ordinances, and laws.
E. Testing Industrial Waste: Testing an industrial waste will be performed at least

twice a year or whenever found necessary by the Superintendent. The person discharging the waste shall be liable for payment of all costs arising from the testing of the industrial waste.

F. Grease, Oil And Sand Traps: Grease, oil, and sand traps shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand or other harmful ingredients, except, that such traps shall not be required for private living quarters or dwelling units. All traps shall be of a type and capacity approved by the Superintendent and shall be located as to be readily and easily accessible for cleaning and inspection. Grease and oil traps shall be installed in all new filling stations, garages, restaurants, and other new facilities wherein heavy discharge of grease and oil is to be expected.

G. Maintenance Of Preliminary Treatment And Flow-Equalizing Facilities: Where preliminary treatment or flow-equalizing facilities are provided for any industrial liquid wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

H. Waste Meters; Manholes:

1. When required by the superintendent, the owner of any property serviced by a building sewer carrying industrial liquid wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes.

2. Such manhole, when required, shall be accessibly and safely located, constructed in such a manner as to prevent infiltration of ground and surface waters and constructed in accordance with plans approved by the superintendent. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

Methods Of Testing; Location Of Test Site: All measurements, tests and analyses of the characteristics of waters and wastes shall be determined in accordance with the latest edition of "Standard Methods" and shall be determined at the control manhole provided or upon suitable samples taken at such manhole. The control manhole shall be located so that sampling of the industrial waste will be performed before discharge into the public sewer system.

J. Sampling And Analysis Methods: Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the wastewater treatment works and to determine the existence of hazards to life, limb, and property. The particular analyses involved will determine whether a twenty four (24) hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, COD, BOD, and settleable solids analyses are obtained from twenty four (24) hour composites of all outfalls whereas pHs are determined from periodic grab samples.

K. Access For Sampling: The superintendent shall be allowed access to the properties of all sewer users as necessary to sample, test, and measure all wastewater discharges. Failure to allow such access may, at the city's discretion, be the basis for discontinuance of water service to the property to which access is denied. (Ord. 1985-14, 1-21-1986)

8-2-12: USER FEES':

A. Establishment Of Equitable User Fees:

1. Purpose: The governing body of the city shall take the necessary steps to establish an equitable system of user fees. The purpose hereof is that each individual user shall pay an equitable portion of the city's cost of owning the wastewater facilities plus an equitable portion of the total operation and maintenance costs. (Ord. 1985-14, 1-21-1986)

2. Minimum Charge Or Fixed Fee For Residential Users, Calculation Of Additional Charge Based On Water Flow:

a. The minimum charge or fixed fee for residential, small commercial and large commercial and industrial users of the sewer system and for which up to seven thousand (7,000) gallons per month of water may be discharged to the sewer system shall be nine dollars ninety five cents ($9.95) per month which shall be the charge based on the fixed cost of being connected to the sewer system as set out in this section.

b. The volume of water used per month charge shall be in addition to the minimum charge or fixed fee and shall be two dollars ($2.00) per month for each one thousand (1,000) gallons of water used after seven thousand (7,000) gallons. (Ord. 1988-08, 7-6-1988; amd. Ord. 04-02, 1-20-2004)

B. Fee Computation For Single-Family Homes: For single-family homes, the user fees shall be computed as follows:

UC = A + (K) (V)

Where UC = Monthly user charge fee in dollars per month.

A = Fixed charge in dollars per month for being connected to the sewer system whether or not any wastewater is discharged to the system and for which up to seven thousand (7,000) gallons per month of water may be discharged to the sewer system.

1. See also chapter 3 of this title.

K = Basic charge in dollars per month made per thousand gallons of water used per month above the seven thousand (7,000) gallons per month allowed by paying the fixed charge.

V = Volume of water used per month in thousands of gallons above the seven thousand (7,000) gallons per month allowed by paying the fixed charge; based on the average water consumption for the months of October through February, inclusive, and becoming effective for each user for a twelve (12) month period beginning with the city's billing for the month of January; if actual water use measurements are not available, this value shall be established by the city on the basis of estimated water use for the building being served.

C. Fee Computation For Other Users: For all other users, the user fees shall be computed as follows:

UC = A + (K) (V)

Where UC and K are as previously defined.

V = Volume of water used per month in thousands of gallons above the seven thousand (7,000) gallons per month allowed by paying the fixed charge; if actual water use measurements are not available, this value shall be established by the city on the basis of expected water use for the buildings being served. (Ord. 1988-08, 7-6-1988)

D. Industrial Surcharge: A surcharge will be assessed against persons discharging industrial liquid wastes which are of a greater strength than normal untreated domestic wastewater. "Normal untreated domestic wastewater" is defined as having a maximum yearly average chemical oxygen demand not in excess of four hundred milligrams per liter (400 mg/l) and a settleable solids level not in excess of five milliliters (5.0 ml) per liter. The monthly industrial surcharge shall be computed from the following formulation:

SR = (Vi) Kss(SS-5) + KCOD(COD-400) 5 400

SR = Surcharge in dollars per month; such surcharge being in addition to the monthly user charge.

Vi = Volume of water used per month in thousands of gallons.

Kss = Charge in dollars per month made per thousand gallons of water used for wastes of normal COD concentration.
SS = Settleable solids concentration of the industrial waste in milliliters per liter; shall not be less than five (5) for computation of the surcharge.
COD = COD concentration of the industrial waste in milligrams per liter; shall not be less than four hundred (400) for computation of the surcharge.
Kss and KCOD shall be computed by the city to reflect the city's estimation of the respective costs of treating the settleable solids and COD components of normal wastewater. To compute KSS and KCOD, the following formula shall be utilized:
K = Kss + KCOD + Kv
Where K, Kss and KCOD are as previously defined.
Kv = The estimated portion of K which may be attributed to the processing of a thousand gallons of wastewater independent of treatment or renovation of that wastewater.
E. Charges For Extraneous Flows: Cost for operation and maintenance for all flow not directly attributable to users (i.e., infiltration/inflow) shall be distributed among all users in the same manner as the cost for their actual use.
F. Access Of City To Water Utility Records Of User: For the purpose of assessing equitable user fees, any person engaging wastes to the sanitary sewers shall permit access by the city to water utility records for that person's property. (Ord. 1985-14, 1-21-1986)
G. Standby Charges: Where vacant, uninhabited or unused land abuts city sewer within one hundred feet (100') thereof, the owner or lessee shall pay a sewer standby charge to the city as provided in the most current sewer rate schedule ordinance. (Ord. 1987-05, 5-19-1987)
H. Faulty Or Broken Water Meter, Estimate: In the event of the stoppage of, or the failure by any water meter to register the full amount of water consumed, or inaccessibility of meter, or failure by the city to read the meter, the customer will be billed for such period based on an estimated normal consumption for corresponding

periods in the preceding year or years, or consumption in preceding months.

I. Private Water System; Measurement Of Water Use: Where any person, business or industry is connected to the public sewer system but utilizes a private water system, such person, business or industry shall allow the city to install water meters to measure the water usage from the private water system. The meters shall be provided by the city and installed at the cost of the sewer user. The water usage from the private water system shall be used as the volume of water consumed for the purposes of computing the service charge for the person, business or industry. This is an alternative method for establishing sewer service fees and the city, in its discretion, may instead assess sewer fees based on a use of one hundred thousand (100,000) gallons per year for a single family. Such person, business or industry shall allow employees of the city to come onto the property and read the water meter at all reasonable times.

J. Monthly Payments Required: The sewer charges levied pursuant to this section shall be payable monthly, in conjunction with the monthly water bill rendered by the city. Properties outside the city shall pay a surcharge of fifty percent (50%) of and in addition to the monthly charge. If bills are not paid within ten (10) days after the due date, a late penalty of ten percent (10%) of the amount past due shall be paid. Sewer charges shall be stated separately on the combined water and sewer bill.

K. Fee Schedules Established: The city council shall, at a future date prior to beginning sewer services, establish by ordinance the specific service fee schedules to be charged. (Ord. 1985-14, 1-21-1986)

L. Review Of Rates: The city council shall review all wastewater facilities operation, maintenance and replacement or expansion costs and user rates at a minimum frequency of every two (2) years. If necessary, user rates shall be revised in accordance with the results of the review. (Ord. 1987-05, 5-19-1987)

M. Annual Increase: All rates, including minimum and variable rates, shall be increased by four percent (4%) or adjusted for inflation annually from the current seventy five percent (75%) to one hundred percent (100%) of the consumer price index (percent Dec. - Dec.), whichever is greatest, and an additional two percent (2%) increase over the current rate will be added annually, U.S. department of labor, bureau of statistics, CPI-U, all items, unless otherwise acted upon by the municipal governing body. This annual increase to become effective based on April 9, 2009. (Ord. 04-02, 1-20-2004; amd. Ord. 09-01, 3-17-2009)

8-2-13: **SEWER LINE EXTENSIONS:** Whenever an extension of the city city sewer line is required to serve an applicant, or group of applicants, extension will be made under the following terms and conditions by the applicant:

A. Sizing; Costs: All line extensions shall be sized to provide adequate service. In the event that the city system plan requires a larger line size than is required to serve the applicant's needs, the applicant will not be required to absorb the difference in investment between the applicant's required line size and the line size required by the plan; but in no event shall the extension costs to applicant be based on lines smaller than those needed for applicant's domestic service. The city shall be the sole judge of proper line sizing in any new construction and shall be the sole judge of the line size cost to the applicant.

B. Costs Paid By Applicant: The investment in the line extension required to serve the applicant's domestic requirements as specified above will be paid in total by the applicant requesting the line extension.

C. Right-Of-Way And Easements: All lines will be constructed in existing public roads, streets, city owned lands, alleys or easements. The applicant shall furnish such rights of way in the form of duly executed easements without charge to the city and shall assist the city in securing other rights of way necessary to provide service over property not owned by said applicant.

D. Special Conditions: Special conditions which affect the furnishing of sewer service to an applicant or group of applicants such as elevation, terrain, volume required in existing mains, and other conditions resulting in increased costs to the city in providing sewer service shall be taken into consideration by the city and the cost thereof shall be added to the tapping fee. (Ord. 1985-14, 1-21-1986)

8-2-14: **SANITARY SEWER DESIGN CRITERIA:** There is hereby adopted the following exhibit A requiring engineering design reports for each project, which shall describe existing conditions and problems, and describe the proposed solution, which shall be followed by all persons seeking to connect to the sanitary sewer system of the city:

Exhibit A, "Sewer Facilities Construction Standards", prepared for the city by Molzen-Corbin Consulting Engineers.

SECTION 109

SANITARY SEWER DESIGN CRITERIA

This section presents the criteria, standards, and regulations related to the design of sanitary sewer systems for general development service. It does not cover the criteria for design of major interceptor sewers or treatment facilities. The material is directed to the competent design professional and is not intended to be a detailed design handbook. Criteria and standards presented are those determined to be the minimum acceptable values necessary to result in system designs having satisfactory function characteristics, durability, and operational suitability. It is expected that the designer will strive for the best design to suit the circumstances involved, and that designs will reflect sound professional judgment at all times.

109.1 Governing Regulations

Ordinances and policies related to the design and operation of sanitary sewer systems include the following:

1. Subdivision Ordinance
2. Sewer Use Ordinance (Ordinance 85-14)
3. Sewer and Utility Expansion Charge Rates

109.2 Areawide Wastewater Collection and Treatment Facilities

109.2.1 Plan

109.2.1.1 Engineering Design Criteria

Design Capacity Criteria

Off-site flows will be considered by the designer and shown in this design calculation.

109.2.1.2 Sanitary sewer design shall conform in size, location, and arrangement to adopted plans. Governing plans may include, but are not limited to, the approved area plan and City Master Plan. The City should be consulted for information regarding applicable plans for areas under design consideration.

109.2.1.3 In residential areas, the following design flows will be used per house, apartment, townhouse, or mobile home:

Average	Peak	
Houses	380 gpd	855 gpd
Apartments, mobile	290 gpd	650 gpd homes, townhouses

109.2.1.4 Commercial sewage flows will be considered on a case-bycase basis by the designer. The designer will present the basis for the commercial sewage flow used in his design calculations.

109.2.1.5 Design flow shall be 1.2 x peak flow.

109.2.1.6 Design is for full pipe flow at the design flow.

109.2.1.7 Manning's Formula is to be used for determination of pipe flow velocities and capacities using a value for Manning's "n" = 0.013.

a. Peak velocity - Velocity at peak flow conditions.

b. Average velocity - Velocity at average flow conditions.

109.2.1.8 Minimum velocity in sewer shall be 2.0 fps. Maximum velocity shall be 10 fps.

109.2.1.9 Minimum collector size allowable is 8 inches.

109.2.2 Manhole Criteria. (See Standard Details 5200-109.22SS-A, B, and C)

109.2.2.1 Manholes must generally be located on the center line of street right of way or of street width if the street is not concentric with the right of way. Manholes

for straight lines in curved streets may be located as much as 5 feet off from center line of street or right of way; however, required clearances from other utilities must be maintained. The offset of such manholes is to be dimensioned from center of manhole barrel to the center line of the street or right of way.

109.2.2.2 Standard minimum manhole depth is 6.0 feet, measured from rim to invert, unless otherwise approved by City.

109.2.2.3 The required inside diameter for a manhole is determined as follows:

a. Minimum inside diameter is 4.0 feet.

b. 6.0 feet minimum inside diameter manholes to be used where indicated on the improvement plans.

109.2.2.4 Flow will not be permitted to change in direction horizontally by more than 90° in a manhole.

109.2.2.5 The minimum drop through a manhole will be 0.10 feet except in the case of a single line straight through manhole in which case the normal slope of the line shall be maintained. Where flows converge at a manhole, the inverts should be designed to produce a smooth water surface at design flow with no backwater conditions in any of the incoming lines.

109.2.2.6 The maximum distance between manholes allowed is 350 feet.

109.2.2.7 Cleanouts will not be allowed in lieu of manholes on the sewer system unless approved by the City.

109.2.3 Line Criteria

109.2.3.1 Sanitary sewer materials and installation methods must comply with the requirements set forth in the New Mexico Standard Specifications for Public Works Construction (as modified herein) and Standard Details.

109.2.3.2 Minimum line size allowed: 8 inch inside diameter.

109.2.3.3 Curvilinear sewer lines will not be acceptable.

109.2.3.4 Sections of line that are flat relative to the upstream line are to be avoided. As much as possible, continuous flow velocity and capacity will be provided. The energy gradient should slope generally parallel to the slope of the invert with no abrupt changes or slopes opposite to the direction of flow.

109.2.3.5 Line depth should be sufficient to provide gravity service to property contiguous to the line. Additional depth may be required to provide service. Generally, house services shall be a minimum of 2 feet below finished floor elevation, measured at a point on the finished floor edge farthest from the sewer main.

109.2.3.6 The main lines are to be located within public right of way except as noted in Section 109.2.3.7 following and are to be aligned in accordance with the Primary Utility locations, Exhibit 109-1. Where the Primary Utility locations do not apply, the following criteria apply:

(See following page for diagram)

R/W
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LOCATIONS IN STREETS
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EXHIBIT 109-1
8-2-14 8-2-14
a. The New Mexico Department of Public Health policy on the proximity of water and sewer lines: "whenever possible, it is desirable to lay parallel water and sewer lines at least 10 feet apart horizontally, and the water line should be a higher elevation than the sewer. If this is not possible, separate trenches will be required in all cases (this shall be effective even though one line has been installed prior to the other), and the water line shall be at least 2 feet above the sewer. When water and sewer lines cross each other, the water line shall be at least 3 feet above the sewer; otherwise, the sewer shall be of ductile iron pipe". A preferred alternative is encasement in concrete for 10 feet on each side of the water line. If ductile iron pipe is used, it must be run from manhole to manhole. See Standard Details S-200-109.236SS and S-200-109.323SS.
b. Main lines must be located so they can be maintained without disturbing any sidewalk, curb, gutter, or any other utility. The required trench must be totally within the paved roadway.
c. Written approval of the City must be obtained for any deviations from the Primary Utility locations.
109.2.3.7 Sanitary sewer main lines may be located outside public right of way only under the following conditions:
a. Prior written approval is given by the City.
b. The main line must be located as follows:
(1) In a paved, permanent access easement, or
(2) In a planned green space with access suitable for sewer line maintenance equipment.
(3) If (1) and/or (2) above are impossible due to prior platting, the situation will be handled as a special case.

c. A permanent easement will be granted for exclusive use of water and sanitary sewer. It must be possible to excavate any buried water or sanitary sewer with 1:1 side slopes from the bottom of the pipe, without disturbing any sidewalk, curb and gutter, or any other utility. The required trench must be totally within the paved roadway and the exclusive underground

easement. A minimum width easement of 20 feet is required for a single utility and 25 feet for water and sewer.

d. Compliance with the New Mexico Department of Public Health policy on the proximity of water and sewer lines must be achieved.

e. In private streets, Primary Utility locations apply where possible.

109.2.4 Trenching and Backfillinq. Trenching shall be performed in accordance with improvement plans and specifications. Trenching shall be of sufficient depth and width to properly install the pipe. Padding or bedding material to be placed around pipe shall be a finely graded material free of rocks in excess of one inch in diameter and shall be free of any sharp objects and deleterious material. Bedding material shall be compacted around the pipe and at least 6 inches above the pipe. The remainder of the backfill material shall be select material compacted to a density of at least 90% of the maximum density as determined by ASTM D1557. When located under roads, sidewalks, etc., the top 6 inches of ditch backfill shall be compacted to a minimum density of 95% of maximum density as determined by ASTM D1157. The above trenching and backfilling methods shall apply to all utility lines (sewer, water, gas, etc.) installed in the subdivision. See Standard Drawing S200-109.323SS.

109.2.5 Service Connections (private collection systems and individual service connections).

109.2.5.1 Four inch (4") minimum size service connections must be made to the main line (Standard Detail S200-109.251SS) except at the end of cul-de-sacs where connection to a manhole is permitted in the manner shown in Standard Detail S200-109.25SS.

109.2.5.2 Six inch (6") service connections are permitted where a 6-inch tee in the main exists.

109.2.5.3 Four inch (4") mechanical taps are permitted to tappable main lines 8 inches and larger. Mechanical taps must conform to the requirements of the New Mexico Plumbing Code, latest edition.

109.2.5.4 All service connections shall have a minimum slope of 1/4 inch per foot toward the main within the public right of way.

109.2.6 Sewage Lift Stations

109.2.6.1 Sewage lift stations shall be set pit type, with submersible, easily-removable sewage pumps.

109.2.6.2 The lift station shall have 100% standby capability with one pump out of service at peak flow.

109.2.6.3 Sized for a maximum of four (4) pump starts per hour.

109.2.6.4 In order to provide standardization for maintenance and repair parts, pumps shall be Flygt brand.

109.2.6.5 Lift station controls shall be supplied by pump manufacturer.

109.3 Construction Criteria

109.3.1 General. Any special crossing permits or easements required for installation of sewer lines or appurtenances are to be

obtained by the developer in the name of the City at the
developer's expense.
109.3.2 Materials
109.3.2.1 All construction shall conform to the Standard Details and the Subdivision Regulations unless otherwise approved by the City.
109.3.2.2 All construction will conform to the New Mexico Standard Specifications for Public Works Construction as modified herein, unless otherwise approved by the City.
109.3.2.3 Sewer Lines
a. Materials
(1) DIP - ASTM/ANSI A746, push on joints.
(2) PVC - Gravity sewer lines 18 inches and larger, ASTM F697 and/or UNI-89, 15 inches and smaller, ASTM D3034, SDR 35.
City of Sunland Park
8-2-14 8-2-14
(3) Force Mains
(a) PVC - AWWA C900 pressure Class 150 minimum.
(b) DIP - AWWA C151
b. Installation
(1) Trenching and backfilling per pipe manufacturer's instruction/recommendations, or Standard Detail S-200-109.323SS.
(2) Testing - Compaction testing required every 500 feet. Backfill in road will require compaction testing every 200 feet.
109.3.2.4 Manholes
a. Materials - See Standard Details.
b. Installation - See Standard Details.
109.3.2.5 Lift Stations
a. Type - Wet pit manhole type with hinged cover and submersible pumps on slide rail for easy removal. Sewage piping in lift station to be ductile iron.
b. Installation - Shutoff valves and check valves to be external to the lift station.
109.2.3.6 Service Connections
a. Types - In-line service tees or wyes to be provided on new sewer lines.
b. Installation - See Standard Details.
109.2.3.7 Testing of Service Lines. Refer to New Mexico Standard Specifications for Construction of Public Works.
109.2.3.8 In case of conflict or discrepancy between these regulations, Standard Details, and NMSSPWC, these documents will govern in the following order of priority:
1. Subdivision Regulations
City of Sunland Park
8-2-14 8-2-14
2. Standard Details
3. NMSSPWC
(See following pages for diagrams)
City of Sunland Park
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RINGO
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ALUMINUM
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SECTION
Ei:Lj‘ WITHOUT LOCK ASSEMBLY 1
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SECTION A-A WITH LOCK ASSEMBLY
GENERAL NOTES:

I. STANDARD ALUMINUM II N PRAWE AND COVER, ALUMINUM M H COVER SHALL SE MODEL NO. MN-100-54 -AL INC., VIAND JUNCTION, COLO. OR APPROVED EQUAL.
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2. STANDARD CAST IRON M.H. FRAME ANO COVER
CAST IRON MH. COVER SHALL BE NEENAH
R-1772 Ad), OR C AS REQUIRED • OR APPROVED EQUAL.
COVER WEIGHT IGO LDS FRAME WEIGHT H5 LOS TOTAL WEIGHT 325 LDS
S. ALUMINUM M.H. FRAMES AND COVERS MAY BE USED ONLY IF SPECIFIED ON THE PROJECT DRAWINGS.
CONSTRUCTION NOTES.
A. BOLT
I. L.0
C. TENSION WARMER
D. CAM LOCK
E. NUT
F. GROUND 'CAMINO PO PACER
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CITY OF SUNLAND PARK
SEWER MANHOLE
FRAMES AND COVERS
S200-109.22SS-C
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REVISIONS
CITY OF SUNLAND PARK
PARALLEL LINES DETAIL CROSSED ONES DETAIL
S200-109.236SS
GENERAL NOTES:
I. ALL CONC. SHELF SLOPES TO SE ONE INCH PEW FI
2 ONE POuRTH INCH PER FT. MIN. SLOPE FOR 4. OR 5" SERVICE LINE.
S. NEW SERVICE CONNECTIONS TO EXIST. ImeS MUST SE CORE DRILLED.
4. 5 OR LARGER SERVICE CONNECTIONS MUST SE MADE TO A MN.
CONSTRUCTION NOTES:
A CAST IRON SERVICE STUN.
VARiASLE WITH MRS. ANGLE Of SOT
C. FORM INVERT IN SHELF.
D. SELL END.
C. CONC. FILL TO SE TYPE 12 CEMENT.
F. INsIDE AND OUTSIDE WON NOWDLR.
G. INV. ELEV. 0.1 FT. AlgivE INV. OF MAIN LINE.
SERVICE LINE AT DEAD END
OR CUL-DE-SAC
SECTION A-A
REVISIONS
CITY OF SUNLAND PARK
SEWER SERVICE LINE &
CONC. BLOCK DETAILS
FOR MH'S
S200-109.25SS
C.. SEWER MAIN
END SERVICE LINE AT EASEMENT OR PROP. LINE
NAT. GROUND
6" ORANGE AROUND PAINT
ALL
I" x 4" x 4'-0" WOOD STAKE END OF SERVICE
12" MIN. BURY OF STAKE
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PIPE
INV.
4' SERVICE LINE
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RISER PIPE (4")
COMPACTED BACK FILL
SEWER MAIN TEE /WYE
1/2" PIPE DIA • El MIN.
NOTE:
WHEN "A" IS LESS THAN 6-0" DELETE RISER PIPE USE 45° ELL IN PLACE OF 90° ELL. TURN SEWER MAIN TEE TOWARD SERVICE SIDE AT A 45° ANGLE AND USE I CU. FT. CONC. BLOCKING AT TEE.
TYPICAL SEWER SERVICE CONNECTION
NO SCALENOTE
I. NO MORE THAN ONE UNIT OR DWELLING PLACE SHALL BE SERVED BY THE SAME SERVICE LINE.
2. SEWER SERVICE SHALL BE CONSTRUCTED OF C.I.P., OR P.V,C, AS PER NMSSPWC .
3. PIPE BEDDING SHALL BE APPROVED BY THE VILLAGE ENGINEER.
CITY OF SUNLAND PARK
SEWER SERVICE
CONNECTION DETAILS
S200-109.251SS
BURIED 2"x 2" x 12" WOOD HUB, PAINTED ORANGE, PLACED JUST ABOVE END OF PIPE
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Existing Pavement
COMPACTED BACKFILL (SEE NOTES)
-5" TIPTRENCHES TIP8 BOTH SIDESA (MINIMUM)
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SECTION
ORDINARY TRENCH CONCRETE ENCASEMENT UNDER PAVEMENT
SEE NOTE 0 SEE NOTE 0 SEE NOTE (9

NOTE' SEE PIPE REDOING REQUIREMENTS IN THE NEW MEXICO STANDARD SPECIFiCM ION FOR PUBLIC WORKS CONSTRUCTION
REVISIONS
CITY OF SUNLAND PARK
STANDARD
TRENCHING DETAIL
DETAIL NO. S200-109.323SS
STANDARD TRENCHING DETAILS
N.T.S.
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8-2-15 8-2-17
8-2-15: ACCESS TO PRIVATE PROPERTY FOR INSPECTION:
Employees of the City shall be allowed access to any private property connected to the public sewer system at all reasonable times for the purpose of inspecting the construction, maintenance and operation of the system. No person shall interfere with such access. (Ord. 1985-14, 1-21-1986)
8-2-16: INCORPORATION OF REQUIREMENTS INTO CONTRACT:
All requirements contained in this Chapter shall be considered a part of the contract of every person utilizing the sewage disposal system, every person shall be considered as having expressly consented to be bound thereby. (Ord. 1985-14, 1-21-1986)
8-2-17: PENALTIES AND REMEDIES:
A. Penalties; Continuing Violations: Every person convicted of a violation of this Chapter shall be punished as provided in Section 1-4-1 of this Code. Each day this Chapter is violated shall constitute a separate offense. The conviction and punishment of any person for a violation shall not excuse or exempt such person from the payment of any fee due or unpaid at the time of such conviction and nothing herein shall prevent a criminal prosecution of any violation of the provisions of this Chapter. (Ord. 1985-14, 1-21-1986; amd. 2000 Code)
B. Remedies Cumulative; Liens:
1. All remedies prescribed or liens created hereunder or under the provisions of the law for collection and enforcement of the fees by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions of this Chapter. The fees authorized by this Chapter shall be a lien in favor of the City upon the real property served and the personal property of the person used in connection with the sewer use which gave rise to the fee and such lien shall be imposed, collected, enforced, and paid as provided by the law. No property of any persons shall be exempt from levy and sale on execution issued for the collection of a judgment for any fee imposed by this Chapter.
2. If any bill for sewage charges remains unpaid for sixty (60) days, a lien on the property receiving the sewage service shall be filed by the City Clerk-Treasurer, as provided by New Mexico Statutes
City of Sunland Park
8-2-17 8-2-17
Annotated section 3-36-1 et seq., and shall be released only upon payment of the charges plus interest as provided by law.
C. Disconnection Of Service: For violations of this Chapter, and specifically for failure to pay tap fees, user fees or other charges, the City may disconnect the violator's water service and refuse to provide water service to the violator until assurances satisfactory to the City are provided by the violator that such violations shall cease. (Ord. 1985-14, 1-21-1986)
I
City of Sunland Park
TITLE 9
BUILDING REGULATIONS

Subject Chapter
Building Codes 1
Uniform Addressing System 2
City of Sunland Park
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CHAPTER 3

MISCELLANEOUS WATER AND SEWER CHARGES

SECTION:

8-3-1: Utility Expansion Charge
8-3-2: Pro Rata Cost Sharing; Line Extensions Or System Improvements
8-3-3: Pro Rata Cost Sharing Exceptions
8-3-4: Service To Multiple Units
8-3-5: Outside City Service; Rates And Billings
8-3-6: Utility Assistance Program

8-3-1: UTILITY EXPANSION CHARGE:

A. Charges Established: At the time of application for each connection to the sewerage disposal system or the water system by any premises located inside or outside the Municipal boundaries, a utility expansion charge, hereinafter referred to as the "UEC" shall be paid in full based on the following schedules:

1. Water UEC:

Water Service Meter Size	Water UEC
5/8 x 3/4 inch	$400.00
1 inch	500.00
2 inch	600.00
3 inch	600.00
4 inch	800.00
6 inch	800.00

2. Sewerage Disposal UEC:

Sewerage Service Type	Sewerage UEC
Domestic or residential per meter	$ 400.00
Commercial per meter	1,000.00

3. Additional Charge: The UEC is in addition to all other fees and charges heretofore or hereafter established by ordinances and resolutions.

B. Exception: Notwithstanding anything to the contrary herein, the UEC shall not be charged to premises used and occupied continuously from and after January 1, 1984, for household domestic or commercial purposes inside the Municipal boundaries of the City as such boundaries existed on January 1, 1984.

C. Disposition Of Funds: All funds collected as a result of the UEC shall be placed in a separate account to be used for financing the expansion of the City water and sewer system. (Ord. 1986-15, 4-1-1986)

8-3-2: PRO RATA COST SHARING; LINE EXTENSIONS OR SYSTEM IMPROVEMENTS:

A. Financing Of Construction:

1. Property owners shall be responsible for the equivalent cost of water and/or sewer lines that are accessible to or can serve the property:

a. The cost of eight inch (8") water and/or sanitary sewer lines shall be assumed for land zoned to allow and proposed to be used for residences which are single-family detached, townhouses, duplexes or triplexes served by common or individual meters; and mobile homes served by individual meters.

b. The cost of twelve inch (12") water and/or sanitary sewer lines shall be assumed for all other land.

2. In situations not covered by other policies herein, the cost of design and construction of water and sewer lines will be paid for by the petitioner or property owner.

3. Master Plan water and sanitary sewer lines in sizes ten inches (10") and larger shall be installed as follows:
a. Master Plan lines when installed primarily for the purpose of facilitating the use of any existing Master Plan facilities by completion of a portion of the Master Plan system, will be installed by the City.
b. Master Plan lines requested in advance of funding in the capital improvement program or unprogrammed Master Plan line extensions of either water lines or sanitary sewer lines may be designed and constructed only if the petitioner advances the estimated cost. If applicable, the equivalent cost of lines as set forth in subsection AI of this Section will be prorated as provided herein. Upon receipt from the intervening property owner of the prorated design and construction cost of the line serving the intervening abutting property, the person financing the original cost of the Master Plan line shall be reimbursed that prorated share without interest.
B. Increase In System:
1. This policy applies to any petitioner who proposes development which:
a. Would require water and/or sanitary sewer line construction, reconstruction or replacement in order to meet the increase in anticipated domestic water and/or sanitary sewer usage or in order to meet required fire flows beyond available system capacities, as determined by the City Engineer; or
b. Would require shoestring extension of the water system that could not provide standard City service, as determined by the City Engineer; or
c. Would require construction of major facilities for water system production, storage and distribution, or for pumping and collection facilities for sewage treatment works, which major improvements would be needed in advance of funding called for in the capital improvements program.
2. Development of such water and/or sewer system improvements shall be accomplished by:
a. Design and construction supplied by petitioner through City turnkey procedure; or

b. Funds for design and construction advanced to the City by the petitioner; petitioner shall be reimbursed by the City for the facilities' cost in excess of those costs for which petitioner is otherwise obligated. Reimbursement, without interest, will be made when such system facilities are approved as City projects in the capital improvements program and are funded, whether through sale of bonds or otherwise.
C. Criteria For Apportionment Of Charges: In those situations where the property owner may be responsible for part or all of the cost of main lines, sewer collector lines and water distribution lines, the following criteria shall be used in determining the extent of such responsibility:
1. Generally:
a. The property may be either improved or unimproved;
b. Water and/or sewer lines must adjoin the property or be otherwise accessible to it;
c. The line(s) must be able to service the property, i.e., proper size, proper elevation, pressure, etc.;
d. The present or future use of the property must indicate a necessity for water and/or sewer service;
e. In determining the use of the property, there shall be taken into consideration the highest and best use for which the property may be reasonably and legitimately adapted whether it be present or future use. However, any such future use must be more than merely speculation or conjecture. Factors to be taken into consideration in making this determination are:
(1) Size of the property.
(2) Present use.

(3) Future use.
(A) Zoning.
(B) Platting.
(C) Development and relationship of surrounding area.
City of Sunland Park
8-3-2 8-3-2
(D) Growth patterns.
(E) Access.
(F) Adopted City/County plans.
(G) Other.
2. The method of determining such charge may be on a front foot, area or other equitable basis. The City Engineer shall determine the actual cost based on the ordinances of the City; however, the City Council reserves the right to make a final determination.
D. Residential Zoned Property With Water And/Or Sewer Lines On More Than One Side:
1. The charge is to be based upon the shortest side of the lot adjoining such line unless service is to be taken from more than one line, then the charge shall be for all such lines connected to.
2. In the event the property is unsubdivided or unplatted, it will be assumed to be divided to provide seven (7) dwelling units per acre.
3. In the event the lines are not installed concurrently, then the charge is to be based upon the first line installed.
4. The cost of installation of such water and sewer lines that are exempted herein shall be prorated among the other properties benefited therefrom.
E. Other Property That Has Water And/Or Sewer Lines On More Than One Side: Such property shall be charged for all adjoining lines as provided for herein.
F. Loop Lines And Fire Protection: Notwithstanding the provisions herein, if water loop lines or lines for fire protection are necessary to provide adequate service and/or fire protection to the property, it shall be charged for such lines.
G. Pro Rata: Under some circumstances the City or a private developer may advance the cost of installation of main lines, water distribution or sewer collector lines for which abutting or accessible property owners may be obligated under these policies to contribute a portion of the cost. When such obligation arises, the property owner shall
City of Sunland Park
8-3-2 8-3-4
pay to the City the appropriate pro rata share of the installation cost at the time application for service connection permits are made.
H. Method Of Determining Pro Rata Share: Pro rata share of total costs shall be based on an equitable method of determining benefit which may include a front foot, area or other equitable method. (Ord. 1987-15, 8-4-1987)
8-3-3: PRO RATA COST SHARING EXCEPTIONS: Notwithstanding
any provision to the contrary herein, pro rata cost sharing shall not be required of public school educational facilities development or of Municipal facilities development owned and operated by the City. (Ord. 1987-15, 8-4-1987)
8-3-4: SERVICE TO MULTIPLE UNITS:
A. Require Separate Meters: The City may in its discretion require a customer to separately meter for water and sewer each living unit (each apartment, condominium, townhouse, mobile home, manufactured home, hotel/motel living unit, or single-family dwelling).
B. Master Water Meter Or Single Sewer Tap: Should a customer desire a master water meter or a single sewer tap to serve more than one dwelling unit, this may be approved by the City in its discretion; provided, that the customer pays certain charges based upon each dwelling unit having a meter or connection.
C. Water Charges: The current ordinances relating to the water system of the

City require for a water service permit, a fee to be paid for connection or tapping, a meter deposit and a utility expansion charge. A customer who receives authority to install a master meter to serve with water service more than one living unit or more than one commercial unit or combination of living unit and commercial unit, shall pay an amount equal to the number of units multiplied by the connection or tapping fee, meter deposit or utility expansion charge plus any other applicable fees or charges.

D. Sewer Charges: The current ordinances relating to the sewer system of the City require for a sewer service permit or sewer tapping permit a fee to be paid for connection or tapping to the sewer system, and a utility expansion charge. A customer who receives authority to install a sewer line to be connected to the City line which sewer will serve

more than one living unit or more than one commercial unit or combination of living unit and commercial unit shall pay an amount equal to the number of units to be served by that line multiplied by the sewer connection or tapping fee and the utility expansion charge plus any other applicable fees or charges. (Ord. 1992-11, 11-4-1992)

8-3-5: OUTSIDE CITY SERVICE; RATES AND BILLINGS:

A. Out Of City Service; Exhibit Adopted By Reference: For each connection to the sewerage disposal system or the water system by any premises located outside the Municipal boundaries, the rates, charges and terms and conditions of service shall be as attached to Ordinance 1996-07, on file in the office of the City Clerk-Treasurer, and incorporated as if fully set out herein. Said attachment is a binder of materials consisting of one hundred twenty four (124) pages and labeled Exhibit A as was enforced by Santa Teresa Services Company as of August 26, 1996.

B. Sewer Service Rate: Notwithstanding anything to the contrary in subsection A of this Section, applicable to all single-family, duplex, triplex or quadruplex residential sewer service ratepayers with one water meter sized one inch (1") or less used to measure water consumption upon which the sewer rates are calculated, monthly charges for sewer service will be in accordance with the following: for premises located outside the Municipal boundaries for service beginning October 1, 1996:

Category	Meter Size	Commodity Customer Charge	Charge Per 1,000 Gallons	Maximum Charge
Single-family	3/4 inch	$7.61	$0.92	$25.00
	1 inch	8.38	0.92	25.75
Duplex	3/4 inch	7.61	0.92	40.00
	1 inch	8.38	0.92	40.75
Triplex	3/4 inch	7.61	0.92	55.00
	1 inch	8.38	0.92	55.75
Quadruplex	3/4 inch	7.61	0.92	64.00
	1 inch	8.38	0.92	64.75

And for general metered service to such properties, the monthly charge for sewer service will be in accordance with the following:

11/2 inch	$ 9.93	$0.92	None
2 inch	11.59	0.92	None
3 inch	13.24	0.92	None
4 inch	14.87	0.92	None
6 inch	18.13	0.92	None

C. Water And Sewer Billing: The final water and sewer services bills for premises located outside the Municipal boundaries to close the billing cycle for Santa Teresa Services Company shall be mailed on or about September 15, 1996. The initial bills from the City for such premises shall be mailed on or about November 1, 1996, for the previous approximate forty five (45) day period and thereafter billed monthly. (Ord. 1996-07, 9-5-1996)

8-3-6: **UTILITY ASSISTANCE PROGRAM:**

A. Every citizen who can meet the following criteria may be eligible for a reduced water and sewer utility rate:

1. Must be a resident of the City of Sunland Park.

2. The resident in whose name the utility bill is in must be age fifty (50) or older.

3. The qualified person must have an income of less than eighty percent (80%) of the median income for the City.

4. The resident must have had the utility billing in his or her name for two (2) consecutive years or longer.

B. Every citizen who meets the above listed criteria will be eligible for a reduction in the water and sewer rate equal to the minimum rate charged by the City. If a resident meets the listed criteria, and the resident requests that the Utility Assistance Rate be applied to him or her, then the City Manager shall approve the request. If a resident meets only three (3) of the criteria then the request shall be subject to approval by both the Mayor and the City Manager at their discretion. If either the City Manager or the Mayor do not approve the request, it may be appealed to the City Council, who may approve the request. The approval of the Utility Assistance Program will have a duration of one (1) year. The approval shall expire in twelve (12) months from the approval date. The resident must request a new approval every year and must meet the criteria every year. (Res. 2011-46, 10-7-2011)

CHAPTER 4
REBATE PROGRAM FOR LOW VOLUME PLUMBING FIXTURES
SECTION:
8-4-1: Definitions
8-4-2: Rebate Program
8-4-3: Use In New Construction

8-4-1: DEFINITIONS: The following words and phrases have the following meanings when used in this chapter:

NEW CONSTRUCTION: Any construction for which a building permit is required including industrial, commercial and residential. The installation of a mobile home is also considered new construction. (Ord. 04-05, 4-20-2004)

8-4-2: REBATE PROGRAM: It shall be the responsibility of the city's water and wastewater operator to administer this program. The program shall consist of a one time rebate of twenty five dollars ($25.00) for every new low volume toilet installed in a retrofit fashion. The rebate shall be awarded as a reduction in the water bill. The director of the water and wastewater department shall approve every retrofit rebate once proof is given that the proper toilet has been purchased and installed. The director shall cause an inspection of the premises to be conducted by a staff member prior to the issuance of the rebate. (Ord. 04-05, 4-20-2004)

8-4-3: USE IN NEW CONSTRUCTION: No toilet used in new construction shall be eligible for this rebate program. (Ord. 04-05, 4-20-2004)

CHAPTER 5

STORM WATER MANAGEMENT

SECTION:

8-5-1: Authority and Purpose
8-5-2: Applicability
8-5-3: Administration
8-5-4: Duties and Responsibilities of Director of Public Works
8-5-5: Definitions
8-5-6: General Prohibitions
8-5-7: Specific Prohibitions and Requirements
8-5-8: Release Reporting and Cleanup
8-5-9: Storm Water Discharge from Construction Activities
8-5-10: Authority to Pursue Administrative Remedies
8-5-11: Criminal Penalties and Other Remedies
8-5-12: Authority to Issue Criminal Citations

8-5-1: AUTHORITY AND PURPOSE:

A. This Chapter is adopted in accordance with the authority granted by the New Mexico Water Quality Act and the United States Clean Water Act. Under the National Pollutant Discharge Elimination System (NPDES) established by the Clean Water Act (33 USC § 1342), the City is required to obtain a permit for storm water discharges from its Municipal Separate Strom Sewer System (MS4). In 2007 the U.S. Environmental Protection Agency (EPA) issued an NPDES Final General Permit (Federal Register Volume 72, Number 113, Page 32654) for Small Municipal Separate Storm Sewer Systems in New Mexico under which the City has obtained permit authorization for its storm water discharges. The permit requires the City to adopt an ordinance that prohibits non-storm water discharges into the MS4 and requires construction site operators to control erosion, sediment and wastes.

B. The purpose of this Chapter is to promote the elimination or reduction of pollutants that enter the MS4 and to establish control over discharges to and from the MS4. It shall also be the purpose of this Chapter to:

1. Maintain and improve the quality of surface water and groundwater within the City limits;

2. Prevent the discharge of contaminated storm water runoff from industrial, commercial, residential, and construction sites into the MS4, channels, watercourses, water and waters of the U.S.;

3. Promote public awareness of the hazards involved in the improper discharge of hazardous substances, petroleum products, household hazardous waste, industrial waste, sediment from construction sites, and other contaminants into the MS4, channels, watercourses, water and waters of the U.S.;

4. Minimize destruction of the natural landscape by reducing erosion and sedimentation;

5. Control the adverse impacts associated with accelerated storm water runoff on natural channels and watercourses and all MS4 structures due to increased development and creation of new impervious surfaces;

6. Minimize erosion and degradation of channels and watercourses and improve their condition where possible;

7. Respect, protect, maintain, and restore natural channels and watercourses, wetlands, bisques, floodplains, steep slopes, riparian vegetation, and wildlife habitat areas;

8. Facilitate compliance with state and federal standards and permits by owners and operators of construction sites;

9. Enable the City to comply with all federal and state laws, regulations and permits applicable to storm water discharge; and

10. Protect the health and welfare of and improve the quality of life for the citizens and residents of the City. (Ord. 2013-04, 6-18-2013)

8-5-2: **APPLICABILITY**: This Chapter shall apply to any human activity, operation and/or practices, or any condition caused by human activity, that results in a discharge to the MS4 or a channel, water course, water or waters of the United States. (Ord. 2013-04, 6-18-2013)

8-5-3: **ADMINISTRATION:** The Director of Public Works or designee shall administer and coordinate the implementation and enforcement of the provisions of the Chapter. (Ord. 2013-04, 6-18-2013)

8-5-4: **DUTIES AND RESPONSIBILITIES OF DIRECTOR OF PUBLIC WORKS:** Duties and responsibilities of the Director of Public Works or designee shall include, but are not limited to the following:

A. Be the guardian of the MS4, including but not limited to dams, detention and retention basins, storm drains, outlets, pumping stations, channels, watercourses, water, and waters of the U.S. within the City;

B. Maintain and hold open for public inspection all records pertaining to the provisions of this Chapter;

C. Review and approve or disapprove Storm Water Pollution Prevention Plans (SWPPP) required by this Chapter;

D. Supervise the operation and maintenance of the MS4 to ensure its safe and effective functioning and notify the appropriate staff of any required maintenance and/or repair work;

E. Establish and implement a program to locate and eliminate illicit discharges and improper disposals to the MS4; and

F. Establish and implement a program to control pollutants in storm water discharges from construction activities. (Ord. 2013-04, 6-18-2013)

8-5-5: **DEFINITIONS:** For the purpose this Chapter, the following words shall have the meaning set forth in this Section. The following terms, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

AGRICULTURAL STORM WATER RUNOFF:	Any storm water 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.
APPROVE, APPROVED OR APPROVAL:	Approve, approved, or approval, when used in the context of the City approving a SWPPP, only means the City accepts the SWPPP as meeting the minimum requirements of this Chapter. No other representation shall be implied.
BEST MANAGEMENT PRACTICES (BMPs):	Schedules of activities, prohibitions or practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to the MS4 and waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

BMPs:	See Best Management Practices.
CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL:	A Certified Professional in Erosion and Sediment Control (CPESC).
CFR:	See “Code of Federal Regulations”.
CHANNEL:	A natural or artificial watercourse, including arroyos, streams, swales, ditches and diversions with a definite bed and banks that conveys flowing water continuously or periodically.
CLEAN WATER ACT:	The Federal Water Pollution Control Act originally enacted in 1948, amended numerous times, included substantial amendments called the Federal Water Pollution Control Act Amendments of 1972 and the Water Quality Act of 1987, and other subsequent amendments collectively known as the Clean Water Act (CWA). The CWA establishes the basic structure for regulating quality standards for surface waters.
CLEARING:	The removal of surface vegetation without disturbance of the root system.
CODE OF FEDERAL REGULATIONS:	The codification of the general and permanent rules published in the Federal Resister by the executive departments and agencies of the Federal Government. All references to "CFR" are to specific Parts, Sections, Tables, or Appendices of the Code of Federal Regulations, as amended.
COMMENCEMENT OF CONSTRUCTION ACTIVITIES:	The initial disturbance of soils associated with clearing, grading, or excavating activities or other construction-related activities (e.g. stockpiling of fill material).
COMMON PLAN OF DEVELOPMENT:	A construction activity that is completed in separate stages, separate phases, or in combination with other construction activities. A common plan of development (also known as a "common plan of development sale") is identified by the documentation for the construction project that identifies the scope of

the project and may include plats, construction drawings, marketing plans, contracts, building permits, a public notice or hearing, zoning requests, or similar documentation and activities.

CONSTRUCTION ACTIVITY:

A. Any activity that:

1. Disturbs equal to or greater than one (1) acre of total land area; or

2. Disturbs less than one (1) acre of total land area but is part of a larger common plan of development that will ultimately disturb equal to or greater than one (1) acre of area (For example, construction of a single-family residence on one lot in a subdivision where the developer and all builders combined will disturb one (1) acre or more); or

3. Disturbs at least five thousand (5,000) square feet but less than one (1) acre of total land area and is for a non-resident development.

B. The following land disturbing activities shall be included in calculating the area disturbed by a construction activity.

1. Off-site extensions of utilities and roads to serve the development being constructed; and

2. Batch plants, borrow areas, spoil areas and contractor laydown and parking areas that are used solely to support the construction activity and do not support multiple construction activities for which a separate NPDES permit would be required.

C. Construction activity does not include routine maintenance that is performed to maintain the original line, grade, hydraulic capacity, or original purpose of the site.

CONTAMINATED: Containing a harmful quantity of pollutant.

CPESC:	See “Certified Professional in Erosion and Sediment Control”.
CWA:	See “Clean Water Act”.
DETENTION BASIN (DETENTION POND):	A water-storage facility that gradually releases water by means of an outlet with the goals of controlling peak discharge and providing gravity settling of pollutants.
DEVELOPMENT:	An activity involving property improvement and, usually, a change in land use character and storm water runoff characteristics.
DISCHARGE:	Any addition or introduction of any pollutant, storm water, or any other substance whatsoever into the MS4, channels, watercourses, water, or water of the U.S.
DISCHARGER:	Any person who causes, allows, permits, or is otherwise responsible for, a discharge including, without limitation, any operator of a construction site.
DISTURBED AREA:	An area of land where the soil surface is or will be altered by grading, leveling, scraping, cut and fill activities, excavation, brush and timber clearing, grubbing and construction vehicle operations and/or movement.
DOMESTIC SEWAGE:	Human excrement, gray water (from home clothes washing, bathing, showers, dishwashing, and food preparation), other wastewater from household drains, and waterborne waste normally discharged from the sanitary conveniences free from industrial waste, to include commercial enterprise.
ENVIRONMENTAL PROTECTION AGENCY:	The United States Environmental Protection Agency, the regional office thereof, any federal department, agency, or commission that may succeed to the authority of the EPA, and any duly authorized official of EPA or such successor agency.
EPA:	See “Environmental Protection Agency”.

EROSION: The dislodging and transport of soil particles, or mass movement of soil (mass wasting), by water, wind, gravity or other mechanical means.

EROSION AND SEDIMENT CONTROL PLAN: A plan indicating the specific measures and sequencing to be used controlling sediment and erosion on a development site both before, during and after construction.

EROSION CONTROL: Measures that prevent, reduce, or mitigate erosion.

EXTREMELY HAZARDOUS SUBSTANCE: Any substance listed in the Appendices to 40 CFR Part 355, Emergency Planning Notification.

FINAL STABILIZATION: Means that:

A. All soil disturbing activities at the site have been completed and either of the following two (2) criteria is met:

1. A uniform (e.g. evenly distributed, without large bare areas) perennial vegetation cover with a density of seventy percent (70%) of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures; or

2. Equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

B. Or, all soil disturbing activities at the site have been completed and all of the following criteria have been met:

1. Temporary erosion control measures (e.g. degradable erosion control product) are selected, designed, and installed along with an appropriate seed base to provide erosion control for at least three (3) years without active maintenance;

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2. Temporary erosion control measures are selected, designed, and installed to achieve seventy percent (70%) vegetation cover within three (3) years;

3. The NMED Surface Water Quality Bureau is notified by submitting the information required in the NPDES Construction General Permit Conditions Applicable to the State of New Mexico; and

4. The temporary erosion control measures are inspected and properly maintained a minimum of once per year and in accordance with the NPDES Construction General Permit Conditions Applicable to the State on New Mexico until the criteria of subsection A. (above) for final stabilization has been met.

C. For individual lots in residential construction, final stabilization means that either:

1. The homebuilder has completed final stabilization as described in subsections A., B., and C. above; or

2. The homebuilder has established temporary stabilization, included perimeter controls for an individual lot, prior to occupation of the home by the homeowner and informs the homeowner of the need for the benefits of final stabilization.

D. For construction projects on land used for agricultural purposes (e.g. pipelines across crop or range land, staging areas for road construction, etc.), final stabilization may be accomplished by returning the land to its preconstruction agricultural use. Disturbed areas that were not previously used for agricultural activities, such as buffers strips immediately adjacent to open channels, watercourses, water, or waters of the U.S., and

areas that are not being returned to their preconstruction agricultural use must meet the final stabilization criteria in the above subsections.

FIRE DEPARTMENT: The City Fire Marshal of Fire Services Department, or any duly authorized representative thereof.

GARBAGE: Animal and vegetable waste resulting from the handling, storage, sale, preparation, cooking and serving of foods.

GRADING: An excavation, fill or combination thereof, including clearing and grading.

GRUBBING: The removal of stumps and roots.

HARMFUL QUANTITY: For purposes of this Chapter, discharges of any substance in a quantity determined to be harmful to the public health, public welfare, of the environment. To include discharges of such products of sufficient quantity to:

A. Violate applicable water quality standards;

B. Cause a film or sheen upon or discoloration of the surface of the water or bordering ground or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining banks;

C. Cause any damage to the MS4;

D. Interfere with the operation of the MS4, such as sediment.

HAZARDOUS SUBSTANCE: Any substance designated as hazardous in 40 CFR Part 302.4.

HAZARDOUS WASTE: Any substance identified or listed as a hazardous waste by the EPA in 40 CFR Part 261.

HOUSEHOLD HAZARDOUS WASTE (HHW): Any material generated in a household (including single and multiple residences, hotels and motels, bunk houses, ranger

	stations, crew quarters, camp grounds, picnic grounds, and day use recreational areas) by a consumer which, except for the exclusion provided in 40 CFR Section 261.4(b) (1), would be classified as a hazardous waste under 40 CFR Part 261.
ILLICIT DISCHARGE:	Any discharge to the MS4 that is not composed entirely of storm water, except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the MS4) and discharges resulting from fire fighting activities.
MINIMIZE:	Means reduce and/or eliminate to the extent achievable using control measures that are technologically available and economically practicable and achievable in light of best industry practices, as established in the NPDES Construction General Permit and Effluent Limitation Guidelines and Standards for the Construction and Development Point Source Category (40 CFR Part 450, published in Federal Register, Vol. 74, No. 229, page 62996 on December 1,2009).
MOTOR VEHICLE FLUID:	Any vehicle crankcase oil, antifreeze, transmission fluid, brake fluid, differential lubricant, gasoline, diesel fuel, gasoline/alcohol blend, and any other fluid used in a motor vehicle.
MS4:	See “Municipal Separate Storm Sewer System”.
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 storm water, and which is not used for collecting or conveying sewage.
NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM:	The permitting system established by the Clean Water Act for all discharges to waters of the U.S. and administered by the EPA.

NEW MEXICO ENVIRONMENT DEPARTMENT:	The state department that is responsible for promoting a safe clean and productive environment through implementing environmental programs and regulations within the State of New Mexico.
NMED:	See “New Mexico Environment Department”.
NOI:	See “Notice of Intent”.
NOT:	See “Notice of Termination”.
NOTICE OF INTENT (NOI):	The document that must be filed with EPA, when required, for the construction general permit.
NOTICE OF TERMINATION (NOT):	The document that must be filed with EPA, when required, for the construction general permit.
NPDES:	See “National Pollutant Discharge Elimination System”.
NPDES GENERAL PERMIT FOR STORM WATER DISCHARGES FROM CONSTRUCTION SITES (OR NPDES CONSTRUCTION GENERAL PERMIT):	The permit issued by the EPA under the authority of the CWA to regulate the discharge of pollutants from construction activities. The permit is revised and reissued by the EPA at regular intervals. Construction Site Operators obtain authorization under the permit to discharge storm water from their construction activity by preparing a Strom Water Pollution Prevention Plan and submitting a Notice of Intent to the EPA.
NPDES PERMIT:	A permit issued by EPA (or by the state under authority delegated pursuant to 33 USCS Section 1342 (b)) that authorizes the discharge of pollutants to waters of the U.S., whether the permit is applicable to an individual, group, or general basis.
OPERATOR:	In general, the person operating a facility or activity that is subject to the Chapter. In the context of storm water discharges from construction activities, any and all persons associated with a construction project that meet either of the following two (2) criteria;

A. The person has operational control over construction plans and specifications (including the ability to make modifications to those plans and specifications), typically but not always the owner or developer of the project; or

B. The person has the day-to-day operational control of those activities at a construction project that are necessary to ensure compliance with a Storm Water Pollution Prevention Plan for the site or other permit conditions (e.g. they are authorized to direct workers at a site to carry out activities required by the SWPPP or comply with other permit conditions), typically but not always the contractor.

For a construction activity, the Operator may be one (1) person that meets both of the above criteria or may be two (2) persons, each of which meets one (1) of the above criteria.

OWNER: The person who owns a facility or activity or part of a facility or activity that is subject to this Chapter.

PERMIT: Any duly authorized permit for construction issued by the City of any authorization that includes soil disturbance.

PERSON: Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns or individual who has control over day to day activities. This definition includes all federal, state, and local governmental entities.

PETROLEUM PRODUCT: A product that is obtained from distilling and processing crude oil and that is capable of being used as a fuel for the propulsion of a motor vehicle or aircraft, including motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene distillate fuel oil, and No. 1 and No. 2 diesel.

PETROLEUM STORAGE TANK (PST):	Any one (1), or combination of, aboveground or underground storage tanks that contain petroleum products and any connecting underground pipes.
PHASING:	A construction BMP that is sequencing construction activities to disturb areas of the site, on parcels of land in distinct areas of the project, with the stabilization of each area before the disturbing the next.
POLLUTANT:	Generally, any substance introduced into the environment that adversely affects the usefulness of a resource of the health of humans, animals or ecosystems. Pollutants may be, but are not limited to dredged spoil, solid waste, incinerator residue, sewage, garbage, rubbish, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, dirt, and industrial, municipal, and agricultural waste discharged into water. The term "pollutant" does not include tail water or runoff water from irrigation or storm water runoff from cultivated or uncultivated range land, pasture land, and farm land.
POLLUTION:	The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the usefulness of the public enjoyment of the water for any lawful or reasonable purpose.
PROFESSIONAL ENGINEER:	A person who has been duly licensed and registered by the State Board of Licensure for Professional Engineers to engage in the practice of engineering in the State of New Mexico.
PST:	See “Petroleum Storage Tank”.

QUALIFIED PERSONNEL:	Persons who possess the appropriate competence, skills, and ability (as demonstrated by sufficient education, training, experience, and, when applicable, any required certification or licensing) to perform a specific activity in a timely and complete manner consistent with the applicable regulatory requirements and generally-accepted industry standards for such activity.
RCRA:	See Resource Conservation Recovery Act.
RELEASE:	Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the MS4, channels, watercourses, water, or the waters of the U.S. or onto the ground that is not authorized by an NPDES of RCRA permit.
REPORTABLE QUANTITY (RQ):	For any "hazardous substance," the quantity established and listed in Table 302.4 of 40 CFR Part 302 and for any "extremely hazardous substance," the quantity established in 40 CFR Part 355 and listed in Appendix A thereto.
RESOURCE CONSERVATION AND RECOVERY ACT (RCRA):	The congressional Act under which the Environment Protection Agency issues rules, regulations and permits to address municipal, industrial, hazardous, medical and special wastes and underground storage tanks that store petroleum or certain chemical products.
RETENTION BASIN (OR RETENTION POND):	A water-storage facility that has no outlet for storm events with a one hundred (100) year return period or more frequent.
RUBBISH:	Solid waste, excluding food waste and ashes, from homes, institutions and workplaces.
RUNOFF:	Water from rain, snowmelt or irrigation that flows over the land surface and does not infiltrate into the ground.
SANITARY SEWER (OR SEWER):	The system of pipes, conduits, and other conveyances which carry waste sewage to a sewage treatment plant (and to which storm water, surface water, and groundwater are not intentionally admitted).

SEPTIC TANK WASTE:	Any domestic sewage removed from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
SEWAGE (OR SANITARY SEWAGE):	The waste that is discharges into sanitary sewer systems and flows to a sewage treatment plant for treatment.
SHALL:	A term that means an action is mandatory.
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.
SOLID WASTE:	Any garbage, refuse, 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.
STOP WORK ORDER:	An order issued by the City that requires all construction or building activity on a site to be halted.
STORM DRAIN:	A system and series of pipes (separate from sanitary sewers) used to convey runoff from precipitation that falls on building and land surfaces.
STORM WATER (OR STORM WATER RUNOFF):	Precipitation runoff, snow melt runoff, and surface runoff and drainage.
STORM WATER POLLUTION PREVENTION PLAN (SWPPP):	A document required by the NPDES Construction General Permit and which describes and ensures the implementation of controls and practices to reduce the pollution resulting from construction activity.
SWPPP:	See “Storm Water Pollution Prevention Plan”.

TEMPORARY (OR INTERIM) STABILIZATION:	Means a condition where exposed soils or disturbed areas are provided a protective cover or other structural controls to prevent the erosion of soil when construction has halted for at fourteen (14) days and is anticipated to resume at some time in the future.
UNCONTAMINATED:	Not containing a harmful quantity of any pollutant.
USED MOTOR OIL:	Any oil that has been refined from crude oil or synthetic oil that, as a result of use, storage, or handling, has become unsuitable for its original purpose because of impurities of the loss of original properties. It may be suitable for other use and is recyclable in compliance with State and Federal law.
WATERCOURSE:	A permanent, intermittent or occasional river, arroyo, stream, creek or other depression, either natural or man-made, having definite limits and evidence of the gathering and conveying surface water.
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 and arroyos.
WATERS OF THE UNITED STATES:	Also called "waters of the U.S." All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce including all waters which are subject to the ebb and flow of the tide; all interstate waters, including interstate wetlands; all other water 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 U.S. under this definition; all

tributaries or 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, 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.

WATER QUALITY STANDARD: The designation of a body or segment of surface water in the State for desirable uses and the narrative and numerical criteria deemed by the EPA to be necessary to protect those uses.

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, and similar areas.

YARD WASTE: Leaves, grass, clippings, yard and garden debris, and brush that results from landscaping maintenance and land-clearing operations. (Ord. 2013-04, 6-18-2013)

8-5-6: **GENERAL PROHIBITIONS:**

A. No person shall introduce or cause to be introduced into the MS4, channels, watercourses, water, or waters of the U.S. within the City any discharge that is not composed entirely of storm water.

B. It is an affirmative defense to any enforcement action for violation of subsection A. of this Section that the discharge was composed entirely of one (1) or more of the following categories of discharges:

1. A discharge authorized by and in full compliance with an NPDES permit (other than the NPDES permit for discharges from the MS4);

2. A discharge resulting from emergency firefighting activities;

3. Agricultural storm water runoff;

4. A discharge from water line flushing, but not including discharge from a 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;

5. A discharge from residential lawn watering, residential landscape irrigation, or crop irrigation water;

6. A discharge from a diverted stream flow or natural spring;

7. A discharge from uncontaminated pumped groundwater or rising groundwater;

8. Uncontaminated groundwater infiltration (as defined in 40 CFR Section 35.2005 (20)) to the MS4;

9. Uncontaminated discharge from a foundation drain, crawl space pump, footing drain, or sump pump;

10. A discharge from a potable water source not containing any pollutant or material from the cleaning or draining of a storage tank or other container;

11. A discharge from air conditioning condensation that is unmixed with water from a cooling tower, emission scrubber, emissions filter, or any other source of pollutant;

12. A discharge from individual residential vehicle washing;

13. An uncontaminated discharge from riparian habitat or wetland;

14. A discharge from water used in street washing provided that the water is not contaminated with a pollutant or cleaning substance; or

15. A discharge of de-chlorinates swimming pool water.

C. No affirmative defense shall be available under Subsection B. of this Section if the discharge of flow in question has been determined by the City to be a source of a pollutant or pollutants to the MS4, channels, watercourses, water, or waters of the U.S. and written notice of such determination has been provided to the discharger.

D. The burden of proof that a discharge was composed entirely of one (1) or more of the categories in Subsection B. od rhia Awxrion and that it was not a source of a pollutant or pollutants to the MS4, channels, watercourses, water, or waters of the U.S. is upon the person responsible for the discharge. (Ord. 2013-04, 6-18-2013)

8-5-7: 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 the general prohibitions in Section 8-5-6 of this Chapter.

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 the City's MS4.

C. No person shall release or cause, allow, or permit the introduction of any of the following substances into the MS4 or the channels, watercourses, water or groundwater within the jurisdiction of the City:

1. Any used motor oil, antifreeze, hydraulic fluid, or any other motor vehicle fluid;

2. Any industrial waste or wastewater;

3. Any hazardous waste, including household hazardous waste;

4. Any domestic sewage or septic tank waste, grease trap waste, or grit trap waste;

5. Any wastewater from a commercial carwash facility, and from any commercial vehicle washing, cleaning, or maintenance at any new or used automobile or other vehicle dealership, rental agency, body shop, repair shop, or maintenance facility;

6. Any wastewater from the commercial washing, cleaning, deicing, or other maintenance of aircraft;

7. Any wastewater from a commercial mobile power washer or from the washing or other cleaning of building a exterior where the wastewater contains any soap, detergent, degreaser, solvent, other cleaning substance, or a pollutant from the surface that is being cleaned, or that has been produced by wash water applied at pressures elevated above the distribution system pressure, or that is at a temperature that has been elevated by induced heating;

8. Any wastewater from commercial floor, rug, or carpet cleaning;

9. Any wastewater from the wash down or other cleaning of pavement that contains any soap, detergent, degreaser, solvent, other cleaning substance, or a pollutant from the surface that is being cleaned, or that has been produced by wash water applied at pressures elevated above the distribution system pressure, or that is at a temperature that has been elevated by

induced heating; or any wastewater from the wash down or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all quantities of such released material have been previously removed;

10. Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or the blow down from a boiler;

11. Any ready-mixed concrete, mortar, ceramic, asphalt base material, hydro mulch material, or soil stabilizers, or runoff from the cleaning of commercial vehicles or equipment containing, or used in transporting or applying, such material;

12. Any contaminated filter backwash from a swimming pool, fountain, or spa;

13. Any fountain, swimming pool, or spa water that is chlorinated (containing 0.1 milligrams/liter or more chlorine when tested with a standard pool chlorine test kit) or contains pollutants, to include any filter backwash water;

14. Any discharge from water line disinfected by super chlorination or other means, if it contains any harmful quantity of chlorine or any other chemical used in line disinfection;

15. Any water from a water curtain in a spray room used for painting vehicles or equipment;

16. Any contaminated runoff from a vehicle wrecking yard;

17. Any substance or material that will damage, block, or clog the MS4;

18. Any release from a petroleum storage tank (PST), or any leachate or runoff from soil contaminated by a leaking PST, or any discharge of pumped, confined, or treated wastewater from the remediation of any such PST release, unless the discharge complies with all state and federal standards and requirements;

19. Any garbage, rubbish, yard waste, or other floatable material;

20. Any runoff, wash-down or other discharge from an animal pen, kennel, or fowl or livestock containment area, unless discharge is authorized by NPDES permit for a Concentrated Animal Feeding Operation; or

21. Any rubble, debris, tile, concrete, brick, asphalt or other building material.

D. No person shall introduce or cause to be introduced into the MS4, channels, watercourses, water or waters of the U.S. any quantity of sediment, silt, earth,

soil, or other material associated with clearing, grading, excavation or other construction activities, or associated with land filling or other placement or disposal of soil, rock, or other earth materials, in excess of what could be retained on site or captures by employing sediment and erosion control measures to the maximum extent practicable under prevailing circumstances.

E. No person shall connect a line conveying sanitary sewage, domestic industrial, to the MS4, or allow such a connection to continue.

F. Parking lot storm drain inlets shall be maintained free of garbage, rubbish, yard waste, and other debris. Such material removed from the inlets shall be disposed of in a container and shall not be allowed to enter the MS4. (Ord. 2013-04, 6-18-2013)

8-5-8: **RELEASE REPORTING AND CLEANUP:**

A. The person operating any facility, vehicle, or other source of spilling, leaking, pumping, pouring, emitting, emptying, discharging, escaping, leaching, dumping, disposing, or any other release of any of the following quantities of any of the following substances that may flow, leach, enter, or otherwise be introduced into the MS4, channels, watercourses, water, or waters of the U.S., shall notify the Mesilla Valley Regional Dispatch Center at (575) 526-0795, or 911 within twenty-four (24) hours and the City Public Works Department and the City's Flood Commission on the next business day:

1. Any amount equal to or in excess of a reportable quantity of any hazardous substance as established in 40 CFR Part 302;

2. An amount equal to or in excess of a reportable quantity of any extremely hazardous substance, as established under 40 CFR Part 355;

3. An amount of oil that either (a) violates applicable water quality standards, or (b) causes a film or discoloration of the surface of the water or a bordering ground or causes a sludge or emulsion to be deposited beneath the surface of the water or upon a bordering ground; or

4. Any harmful quantity of any pollutant as defined in Section 8-5-5.

B. The immediate notification required by subsection A. of this Section shall include the following information:

1. The identity or chemical name of the substance released, chemical classification, and whether the substance is an extremely hazardous substance;

2. The exact location of the release, including any known name of the waters involved or threatened and any other environmental media affected;

3. The time and duration (thus far) of the release;

4. An estimate of the quantity and concentration (if known) of the substance released;

5. The source of the release;

6. Any known or anticipated health risks associated with the release and, where appropriate, advice regarding medical attention that may be necessary for exposed individuals;

7. Any precautions that should be taken as a result of the release;

8. Any steps that have been taken to contain and clean up the released material and minimize its impacts; and

9. The names and telephone numbers of the person or persons to be contacted for further information.

C. Within fourteen (14) days following such release, the person operating the facility, vehicle, or other source of the release shall submit a written report to the City Public Works Department containing each of the items of information specified above in subsection B. of this Section, as well as the following additional information:

1. The ultimate duration, concentration, and quantity of the release;

2. All action taken to respond, contain and clean up the released substances, and all precautions taken to minimize the impacts;

3. Any known or anticipated acute or chronic health risks associated with the release;

4. Where appropriate, advice regarding medical attention necessary for exposed individuals;

5. The identity of any governmental/private sector representatives responding to the release; and

6. The measures taken or to be taken by the responsible person(s) to prevent similar future occurrences.

D. Any release report required by a state or federal authority containing the information described in subsections B. and C. of this Section shall be adequate to meet the reporting requirements of subsection C. of this Section upon submittal to the City.

E. The notifications required by subsections B., C., and D. of this Section shall not relieve the responsible person of any expense, loss, damage, or other liability which may be incurred as a result of the release, including any liability for damage to the City, to natural resources, or to any other person or property; nor shall such notification relieve the responsible person of any fine, penalty, or other liability which may be imposed pursuant to this Chapter or to state or federal law.

F. Any person responsible for any release as described in subsection A. of this Section shall comply with all state, federal, and any other local law requiring reporting, cleanup, containment and any other appropriate remedial action in response to the release.

G. Any person responsible for a release described in subsection A. of this Section shall reimburse the City for any cost incurred by the City in responding to the release, within thirty (30) days of being invoiced by the City. (Ord. 2013-04, 6-18-2013)

8-5-9: **STORM WATER DISCHARGE FROM CONSTRUCTION ACTIVITIES:**

Except for small construction activities with the waiver described in subsection K. of this Section, all operators of a construction activity shall prepare a Storm Water Pollution Prevention Plan (SWPPP) for review and approval by the City. In case where more than one (1) person meets the definition of Operator the persons may cooperate to prepare and implement a single, comprehensive SWPPP for the entire construction site and all phases of construction activity. The SWPPP shall be submitted to the City a minimum of thirty (30) days prior to any land disturbance. For Subdivision Plans, a SWPPP muse be included with a Final Subdivision Plan submittal. The City will review a SWPPP submittal or re-submittal and either accept it or provide a written notice of deficiencies within thirty (30) days of the City receiving the SWPPP.

A. Contents of the SWPPP: The SWPPP shall be in accordance with the requirements for a SWPPP, the effluent limits, and the conditions applicable to the State of New Mexico in the NPDES General Permit for Stormwater Discharges from Construction Activities that is effective at the time the SWPPP is submitted to the City for review. The Site Map (sometimes referred to as an Erosion and Sediment Control Plan) required by the NPDES Construction General Permit shall consist of drawings that are minimum of 11" x 17" and sealed by a Professional Engineer in the State of New Mexico or a Certified Professional in Erosion and Sediment Control. At a minimum, the SWPPP shall contain but is not limited to the following:

1. Name, address, phone number, fax number, e-mail address and SWPPP responsibilities of all Operators using the SWPPP;

2. Name, address, phone number, fax number, and e-mail address of the property owner(s);

3. Site map;

4. Sequence and timing of activities that disturb soil, including phasing to minimize the amount of area disturbed at one (1) time;

5. Delineation and fencing of other protective measures for existing vegetation and natural resources to be preserved;

6. Controls to minimize the disturbance of natural channels and watercourses and steep slopes;

7. Controls to minimize water and wind erosion during construction;

8. Controls to minimize sediment discharges in storm water runoff during construction;

9. Pollution prevention measures to minimize the discharge of pollutants from on-site materials and wastes, including but not limited to concrete truck washout, water from equipment and vehicle washing, wheel wash water, washout of stucco or paint, any other wash water, fuels, oils, other equipment and vehicle maintenance fluids, chemicals, building materials, building products, construction wastes, rubbish, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and spills and leaks;

10. Controls to minimize off-site vehicle tracking of sediment onto paved surfaces;

11. Sediment basins and/or turbidity treatment processes for drainage locations that serve an area with ten (10) or more acres disturbed at one (1) time, as required by the NPDES Construction General Permit;

12. Temporary and permanent outlet structures and velocity dissipation devices at storm water discharge locations to protect against erosive velocities during and after construction;

13. Practices to stabilize all disturbed areas, including off-site areas that were disturbed in support of the construction activity, when construction activity is completed (final stabilization) or has halted (temporary stabilization) and will not resume within fourteen (14) calendar days;

14. Controls to remove suspended soil particles and other pollutants in water discharged from dewatering activities, including discharges from dewatering of trenches and excavations;

15. Using soil loss prediction models or equivalent generally accepted soil loss prediction tools, documentation that implantation of the site specific practices in the SWPPP will result in sediment yields and flow velocities that, to the maximum extent practicable, will not be greater than the sediment yield levels and flow velocities form pre-construction, pre-development conditions;

16. Inspection and maintenance procedures for Best Management Practices and other control measures; and

17. Signature and certification of each Operator using the SWPPP, in accordance with the NPDES Construction General Permit requirements for who is authorized to sign and certify for the Operator.

B. SWPPP Inspection: Qualified personnel (provided by the operator of the construction site) shall inspect all disturbed areas of the construction site that are not stabilizes and areas used for storage of materials that are exposed to precipitation at the frequency required in the NPDES Construction General Permit and its Permit Conditions for the State of New Mexico. Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the MS4, channels, watercourses, waters or waters of the U.S. Erosion and sediment control measures identified in the SWPPP shall be observed by the operator to ensure that they are operating correctly. Where discharge locations or points are accessible, they shall be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to receiving water of the MS4. Locations where vehicles enter or exit the site shall be inspected for evidence of off-site sediment tracking. A report shall be prepared for each inspection and maintained with the SWPPP.

C. SWPPP Maintenance: BMP's and other controls shall be maintained in effective operating condition. If inspections described in Subsection 9.B identify BMP's that are not operating effectively, the BMP's shall be repaired or replaced within fourteen days and before the next storm event whenever practicable. Sediment shall be removed from sediment traps, silt fence, sediment basins, and other sediment controls before it reaches half the height of the control or reduces the control capacity by fifty percent (50%), or more frequently if specified in the SWPPP or by the control's manufacturer.

D. Stabilization: Within fourteen (14) days of stopping or completing construction activities, the construction site operator shall initiate stabilization in accordance with this Chapter and the NPDES Construction General Permit. Temporary stabilization measures may be used if construction activity is anticipated to resume in the future. If temporary stabilization measures are used, inspection and maintenance requirements remain in effect until the criteria for final stabilization are met, regardless of whether construction activity resumes. A Notice of Termination (subsection G. of this Section) will not be accepted by the City unless final stabilization is implemented.

1. If the construction project is completed, the final stabilization shall meet the requirements in this Chapter and the NPDES Construction General Permit, including the Permit Conditions for the State of New Mexico.

2. Temporary stabilization measure in the SWPPP shall be appropriate for and include, but are not limited to, the following:

a. Size of the disturbed area;

b. Soil type and susceptibility to wind and water erosion;

c. Slope steepness and slope stability;

d. Conveyance of storm water runoff around or through the site without causing erosion on the site or downstream;

e. Velocity dissipaters and other protection for temporary discharge to prevent erosion and damage to the downstream MS4, channel, or watercourses;

f. Effective life of temporary stabilization measures in comparison to length of time the disturbed area is anticipated to be without construction activity; and

g. Inspection and maintenance procedures, at least monthly, to ensure effectiveness of the stabilization measures until construction resumes or final stabilization is established.

3. Final stabilization measures in the SWPPP shall be appropriate for and include, but are not limited to, the following:

a. Soil type and susceptibility to wind and water erosion;

b. Slope steepness and its effect on erosion potential;

c. Structural measures to provide slope stability for any cut/fill slope or natural slope disturb by construction that is steeper than three (3) horizontal and one (1) vertical;

d. Permanent structures to convey storm water around and across slopes in a non-erosive manner;

e. For vegetative stabilization methods using live planting (e.g. landscaping), inspection and maintenance procedures until stabilization is established and shown to be effective in satisfying the criteria for final stabilization;

f. For vegetative stabilization methods using seed, (Refer to "Final Stabilization" in Definitions Section):

(1) Temporary controls (turf reinforcement mats, erosion control blankets, etc.) with a minimum life of three (3) years to stabilize the surface until establishment of vegetation;

(2) Seed mix appropriate for the climate and soil conditions;

(3) Soil amendments and fertilizers as appropriate for soil conditions;

(4) Annual (at a minimum) inspection and maintenance procedures until criteria for final stabilization are met; and

(5) An inspection report form in accordance with the Permit Conditions for the State of New Mexico in the NPDES Construction General Permit;

g. For individual lots transferring from a developer or builder to a homeowner;

(1) Perimeter controls in good, effective condition; and

(2) Copy of the letter to be given to the homeowner informing the homeowner of the need for the benefits of final stabilization.

E. SWPPP Revisions: The SWPPP shall be revised to provide different or additional controls whenever a control is determined by the operator or City to be ineffective in controlling its targeted pollutant.

F. Notice of Intent (NOI): All operators of construction activities shall submit to the City a copy of the signed NOI and EPA's acknowledgement of its receipt at least seven (7) calendar days before commencing any soil disturbing activities at the construction site. A copy of the completed NOW must also be posted conspicuously near the main entrance of the construction site. For linear projects, the NOI must be posted at a publicly accessible location near the active part of the construction project.

G. Operator Changes: When the construction activity operator changes, the new operator shall submit a revised SWPPP, signed certification statement, and a copy of the NOI to the City before starting work at the site.

H. Notice of Termination (NOT): All operators that submitted an NOI for construction activities shall submit to the City a copy of the signed NOT within thirty (30) days of one (1) of the following conditions:

1. Final stabilization has been achieved on all portions of the site for which the operator is responsible;

2. BMPs and other controls are in place and have passed to another operator who has submitted an NOI and SWPPP to the City in accordance with the NPDES Construction General Permit and subsections F. and G. of this Section;

3. Coverage under an individual or alternative general NPDES permit has been obtained; or

4. For residential construction only, the operator has established temporary stabilization, including perimeter controls of the individual lot, the lot has been transferred to the homeowner, and the operator has given the homeowner written notification of the need for and benefits of final stabilization.

The City will not accept a NOT without evidence of one (1) of the above conditions.

I. Appeal: An operator who submits a SWPPP for City review and approval under this Chapter and is denied approval may administratively appeal a decision of the Director of Public Works to the Board of City Commissioners. The appeal shall be initiated by filing a written notice of appeal with the Director of Public Works within ten (10) working days from the date of the final written determination by the Director of Public Works. The notice of appeal shall cite the factual basis for the appeal and the relief sought and shall be accompanied by relevant supporting documents and any required fee. The Board of City Commissioners may affirm, reverse, or modify the decision of the Director of Public Works.

J. SWPPP and Permit Denial: The City may deny approval of a SWPPP if it does not meet the requirements of this Chapter of the NPDES Construction General Permit in effect at the time the SWPPP is submitted to the City. In addition the City may deny approval of any City building permit, grading permit, subdivision plat, site development plan, or any other City permit, inspection or approval necessary to commence to continue construction, or to assume occupancy, in the absence of an approved SWPPP required by this Chapter, or whenever Best Management Practices controls and stabilization measures described in a SWPPP, or observed upon a site inspection, are determined not to control and minimize erosion, the discharge of sediment, or other materials and pollutants associated with the construction activities.

K. Waivers: If the construction activity qualifies for an EPA waiver of the NPDES Construction General Permit (Refer to http:\www.epa.gov/npdes/pubs/construction_waiver_form.pdf) and is for a residential development, the City may waive the requirements of this Section; however, the construction site must still comply with the General and Specific Prohibitions. Specifically, the operator must ensure no harmful substances are introduced into the MS4, channels, watercourses, water, or waters of the U.S. It is the operator's sole responsibility to meet the requirements of the EPA waiver. To qualify for the City waiver of this Section, the operator must submit a copy of the EPA Waiver Certification and acknowledgement of its receipt by EPA to the City for review and acceptance. The City reserves the right to require the construction activity to have a SWPPP even if an EPA waiver is obtained. If the operator fails to meet the conditions of a waiver, the operator shall be required to immediately comply with this Section. Failure to do so will constitute a knowing violation of this Section.

L. Fees: A schedule of fees reasonably calculated to help defray the costs of administering and enforcing this Chapter may be estimated and adopted by Resolution of the Board of City Commissioners of Dona Ana City. A schedule of fees may include, but shall not be limited to, a fee for reviewing and processing a SWPPP. (Ord. 2013-04, 6-18-2013)

8-5-10: **AUTHORITY TO PURSUE ADMINISTRATIVE REMEDIES:** Administrative remedies may be pursued by a law enforcement officer, a code enforcement officer of the City, or any employee or employees of the City authorized to enforce this Chapter. An administrative remedy will be pursued before the criminal or other remedies specified in Section 8-5-11 of this Chapter are pursued.

A. Warning Notice: The City may serve a written Warning Notice, specifying the particular violation believed to have occurred and requested the discharge to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice. Nothing in this subsection shall require the City to issue a Warning Notice prior to taking any action, including emergency action or any other enforcement action. Issuance of a Warning Notice shall not be a bar against taking any other action against any responsible party.

B. Notice of Violation: The City may serve a written Notice of Violation. Within seven (7) calendar days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention of reoccurrence thereof, to include specific required actions, shall be submitted by the alleged violator to the City. If the alleged violator denies that any violation occurred and/or contends that no corrective action is necessary, an explanation of the basis of any such denial or contention shall be submitted to the Director within seven (7) calendar days of receipt of the notice. Submission of an explanation and/or plan in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this subsection shall require the City to issue a Notice of Violation prior to taking any action, including emergency action or any other enforcement action. Issuance of a Notice of Violation shall not be a bar against taking any other action against any responsible party.

C. Compliance Orders: When the City finds that any person has violated, continues to violate, or threatens to violate, any provision of this Chapter, or any order issued hereunder, the City may issue an order to the violator directing that the violator come into compliance within a specific time limit, prior to commencement or continuance of operation, or immediately. Compliance Orders also may contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the

MS4, channels, watercourses, water, and waters of the U.S. A Compliance Order may not extend the deadline for compliance established by a State or Federal standard or requirement, nor does a Compliance Order established by a State or Federal standard or requirement, nor does a Compliance Order relieve the person of liability for any violation, including any continuing violation. Nothing in this subsection shall require the City to issue a Compliance Order prior to taking any action, including emergency action or any other enforcement action. Issuance of a Compliance Order shall not be a bar against taking any other action against any responsible party.

D. Remediation, Abatement, and Restoration Orders: When the City finds that a person has violated, or continues to violate, any provisions of this Chapter, or any order issued hereunder, and that such violation has adversely affected the MS4, channels, watercourses, water, or the waters of the U.S. Such remedial, abatement, and restoration action may include, but not be limited to: monitoring, assessment, and evaluation of the adverse effects and determination of the appropriate remedial, abatement, and/or restoration action; confinement, removal, cleanup, treatment, and disposal of any discharged or released pollution or contamination; pretention, minimization, and/or mitigation of any damage to the public health, welfare, or the environment that may result from the violation; restoration or replacement of City property or natural resources damaged by the violation. The order may direct that the remediation, abatement, and/or restoration be accomplished on a specified compliance schedule and/or be completed within a specified period of time. An order issued under this subsection does not relieve the violator of liability for any violation, including any continuing violation. Nothing in this subsection shall require the City to issue an Order under this subsection prior to taking any action, including emergency action or any other enforcement action. Issuance of an order under this subsection shall not be a bar against taking any other action against any responsible party.

F. Stop Work Orders:

1. Whenever the City finds that any operator of a construction site has violated, threatens to violate, or continues to violate, any provision of Section 8-5-9 of this Chapter, or any order issued hereunder, the City may issue a Stop Work Order to the operator, and require that a copy of the Stop Work Order be posted at the Construction site and distributed to all City departments and divisions whose decisions affect any activity at the site. Unless express written exception is made by the City, the Stop Work Order shall prohibit any further construction activity, or any commencement of construction activity, at the site and shall bar any further inspection or approval by the City associated with a building permit, grading permit, or any other City approval necessary to commence or continue construction or to assume occupancy at the site. Nothing in this subsection shall require the City to issue a Stop Work Order prior to taking any action, including emergency action or any other enforcement action. Issuance of a Stop Work Order shall not be a bar against taking any other action against any responsible party.

2. The City shall re-inspect the construction site within three (3) City business days of being notified that corrective actions to remedy the problems have been implemented. (Ord. 2013-04, 6-18-2013)

8-5-11: **CRIMINAL PENALTIES AND OTHER REMEDIES:**

A. In this Section "violation of this Chapter" means any of the following:

1. Doing an act that is prohibited, or made or declared unlawful, an offense, or a misdemeanor by this Chapter or by rule or regulation authorized by this Chapter;

2. Failure to perform an act that is required to be performed by this Chapter or by rule or regulation authorized by this Chapter; or

3. Failure to perform an act if the failure is prohibited, or made or declared unlawful, an offense or a misdemeanor by this Chapter or by rule or regulation authorized by this Chapter.

B. In this Section "violation of this Chapter" does not include the failure of a City officer or a City employee to perform an official duty unless it is specifically provided that failure to perform the duty is to be punished as provided in this Section.

C. Any person convicted of a violation of this Chapter shall be punished by a fine not exceeding three hundred dollars ($300.00), imprisonment for a term not exceeding ninety (90) days, or by both such a fine and imprisonment. Each violation of a provision of this Chapter shall constitute a separate offense, and each day an offense continues shall be considered a new violation for purposes of enforcing this Chapter.

D. The imposition of a penalty does not prevent revocation or suspension of a license, permit or franchise, or other administrative actions or equitable relief.

E. Violations of this Chapter that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. This imposition of a penalty does not prevent the granting of equitable relief. (Ord. 2013-04, 6-18-2013)

8-5-12: **AUTHORITY TO ISSUE CRIMINAL CITATIONS:** Prosecution of violations under this Chapter may be commenced by the issuance of a criminal citation charging the violation. Citations may be issued by a law enforcement officer, a code enforcement officer of the City, or any employee or employees of the City authorized by the Board of City Commissioners to issue such citations. (Ord. 2013-04, 6-18-2013)

TITLE 9

BUILDING REGULATIONS

Subject Chapter

Building Codes. 1
Uniform Addressing System. 2
Sidewalks Required. 3
Low Volume Plumbing Fixtures. 4
Renewable Energy Financing District. 5

9-1-1: 9-1-2: 9-1-3: 9-1-4 9-1-5 9-1-6 9-1-7

Codes Adopted; Copies Available Definition
Office Of Building Inspection; Enforcement
Permits Required; Exception
Permit Fees
Utility Connection
Penalty

9-1-1:

CODES ADOPTED; COPIES AVAILABLE:

A. Codes Adopted By Reference: The New Mexico Uniform Building Code, the Uniform Building Code Appendix, the Uniform Housing Code and the Uniform Code for the Abatement of Dangerous Buildings, 1987 Editions, which were adopted by the General Construction Board and accepted by the Construction Industries Commission effective January 13, 1989; Uniform Plumbing Code, 1988 Edition; Uniform Mechanical Code, 1988 Edition as adopted December 9, 1988 by the Mechanical Board; and the National Electrical Code, 1987 Edition as adopted by the Electrical Board effective January 1, 1987; and any additionai supplements to each as may be adopted, are hereby adopted by the City for the purpose of establishing rules and regulations for the construction, alterations, removal, demolition, use and occupancy, location and maintenance of buildings, structures and issuing permits, subject to all amendments and deletions contained in this Chapter; and from the date on which this Chapter shall take effect, the provisions thereof shall be controlling in the construction of ail buildings and structures therein contained within the City limits.
B. Availability Of Copies: One or more copies of the New Mexico Uniform Building Code and the other codes adopted in subsection A of this Section shall be available and subject to inspection during normal working hours in the City office. {Ord. 1989-03, 4-26-1989)

9-1-2: DEFINITION:

Section 403, amendment for the purpose of this Chapter. Section 403 of the New Mexico Uniform Building Code herein adopted is amended by adding the following thereto:

The word "Board" shall mean the City Council of Sunland Park or its designated agent or authority. (Ord. 1989-03, 4-26-1989)

9-1-3: OFFICE OF BUILDING INSPECTION; ENFORCEMENT:
A. Office Created: There is hereby created the office of building inspection and the official in charge shall be known as the Building Inspector.
B. Nonliability For Official Acts: The Building Inspector and any other City employee charged with the enforcement of the building codes and housing codes, and other related ordinances, acting in good faith and without malice for

the City in the discharge of their duties, shall not thereby render themselves liable personally; and they are hereby relieved from all personal liability for any damage that may occur to persons or property as a result of any act required or by reason of any act of omission in the discharge of their duties. Any suit brought against the Building Inspector or any such employee, because of such act or omission performed in the enforcement of any provisions of the building code or housing code or other ordinance, shall be defended by the legal department of the City until final termination of the proceedings.

C. Right Of Entry; Complaints: If the owner or occupant of any building, premises or portion thereof refuses to allow the City Building Inspector to enter the building, premises or portion thereof at reasonable hours in the discharge of the duties imposed upon the Building Inspector by this Code, the Building Inspector shall obtain, upon oath or affirmation, a search warrant from a Magistrate Court by filing a complaint made before the Magistrate. The complaint shall:

I.Set forth the particular buildings, premises, or portion thereof sought to be inspected;

2. State that the owner or occupant of the building, premises or portion thereof has refused the Building Inspector entry:

3. State that inspection of the building, premises or portion thereof is necessary to determine whether it complies with the requirements of this Chapter;

4. Set forth the particular provisions of this Chapter sought to be enforced;

5. Set forth any other reason necessitating the inspection, including knowledge or belief that a particular condition exists in the building, premises or portion thereof, which constitutes a violation of this Chapter;

6. And state that the Building Inspector is authorized by the Board to make the inspection. The Building Inspector shall be furnished with an identification card from the Board indicating his authority and must present such to the Magistrate for purposes of this Section, and to all other persons when requested to do so. (Ord. 1989-03, 4-26-1989; amd. 2000 Code)

9-1-4: PERMITS REQUIRED; EXCEPTION: No person shall construct, alter, repair, or demolish any building without first obtaining a separate building permit for each building or structure, except that no permit shall be required for performing the following work: minor construction less than one thousand dollars ($1,000.00) in value. Except a contractor must obtain a permit for all work regardless of value. Valuation will be determined by the most current Building Valuation Data Table from the Building Standards. (Ord. 1989-03, 4-26-1989)

9-1-5: PERMIT FEES:

Section 303 amended. Section 303 of the New Mexico Uniform Building Code herein adopted is amended as follows:

(a) The applicant for a permit shall pay the fee prescribed by the Board.

(b) FEES: Fees shall be assessed in accordance with the provisions of this section or shall be as set forth in the fee schedule adopted by the Board.

(c) The determination of value or valuation under any of the provisions of this code shall be made by the building inspector. The value to be used in computing the building permit and building plan review fees shall be the total value of all construction work for which the permit is issued as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators,

fire-extinguishing systems and any other permanent equipment.
(d) When a plan or other data are required to be submitted by subsection (b) of Section 302, a plan review fee shall be paid at the time of submitting plans and specifications for review. Said plan review fee shall be as set forth in the fee schedule.
(Ord. 1989-03, 4-26-1989; amd. 2000 Code)

9-1-6: UTILITY CONNECTION: It shall be unlawful for any person to install, connect, or be instrumental in assisting in the installation of any electrical service, gas service whether natural or otherwise, water service or sewer service to any house or premises in the incorporated area of the City, where any building has been moved on to, erected, constructed, renovated or added to in any way in violation of this ordinance of the City then in effect. (Ord. 1989-03, 4-26-1989; amd. 2000 Code)

9-1-7: PENALTY: In addition to any remedial action or abatement procedures contained in the New Mexico Building Code and the Uniform Housing Code as amended and adopted herein, any person found guilty of violating any of the provisions of this Chapter shall be subject to penalty as provided in Section 1-4-1 of this Code, and each day of violation shall be deemed a separate offense. (Ord. 1989-03, 4-26-1989; amd. 2000 Code)
CHAPTER 2 UNIFORM ADDRESSING SYSTEM

SECTION:

9-2-1: Definitions
9-2-2: Uniform Addresses Required
9-2-3: Assignment Of Locational Addresses
9-2-4: Initial Address Conversion
9-2-5: Addressing Subsequent To Initial Address Conversion
9-2-6: Penalty

9-2-1: DEFINITIONS: The following words and phrases shall have the following meanings when used in this Chapter:

ADDRESS,
LOCATION, PHYSICAL ADDRESS, OR ADDRESS SITE:

AGENT:

CERTIFICATE OF ADDRESS:

CLUSTER DEVELOPMENT:

DWELLING UNIT:

The physical, locational site address issued by the City and a locational address may be used as a mailing address with the approval of the U.S. Postal Service; however, locational addresses are not issued for the purpose of mail delivery.

A person legally empowered to act for another.

A certificate issued by the City providing formal and official notification of the issuance of a legal locational address.

A development having more than one but three (3) or less residences or commercial businesses along a private driveway.

Any structure or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking and sanitation.

EMERGENCY SERVICES: Police, fire or ambulance services as well as other services that are necessary in a life or property threatening situation and are required immediately to protect life or property.

PRIVATE DRIVEWAY: A road or street serving three (3) or fewer dwelling units or commercial buildings. (Ord. 1992-03, 6-12-1992)

9-2-2: UNIFORM ADDRESSES REQUIRED: All houses and other buildings of residence or business shall receive a locational address in accordance with the provisions of this Chapter. No public or private entity or agency other than the City shall issue locational addresses within the City limits without the express written approval of the City. (Ord. 1992-03, 6-12-1992)

9-2-3: ASSIGNMENT OF LOCATIONAL ADDRESSES: Locational addresses shall be assigned by the Public Works Director of the City or his designee. The Public Works Director shall be charged with the responsibility for final staff decisions on all matters addressed in this Chapter and shall sign all certificates of address issued in accordance with this Chapter. (Ord. 1992-03, 6-12-1992)

9-2-4: INITIAL ADDRESS CONVERSION: A general survey of existing locational addresses, conversion of existing locational addresses to comply with the provisions of this Chapter and issuance of new locational addresses where none previously existed shall be undertaken. This process shall be referred to as "initial address conversion11 and shall take place in the following sequence:

A. Nonconforming Addresses: Existing locational addresses that do not conform to the provisions of this Chapter shall be readdressed as deemed necessary by the Public Works Director.

B. Renaming Existing Roads: All existing road names shall be researched by the Public Works Director. Road names appearing not to comply with official names or names that may have been approved by the City shall be brought to the attention of the City Council. Should the City Council determine to rename or provide a different name for a street or portion thereof, property owners along the

street shall be notified and given an opportunity to petition the City Council for a name of their choice. If the residents decline the opportunity to petition for a road name of their choice, the Public Works Director shall suggest road names and the City Council shall adopt it.

C. Address Plaques:

1. Subsequent to assignment of a locational address, the Public Works Director shall provide to each structure, at no charge and on a one time basis only, an address plaque of a design to be approved by the City Council. Such plaque shall be prominently and permanently affixed to the frontage-facing portion of the structure. An acceptable site is frontage-facing fence or barrier wall, at the frontage-facing lot line or in the case of cluster developments, at the entrance to the private driveway.

2. Address plaques lost, stolen or defaced shall be replaced at resident's cost within thirty (30) days of such loss, theft or defacement. Replacement plaques shall be requested from the Public Works Director by the owner, occupant or agent of the frontage lot.

3. Any frontage lot for which a certificate of address has been issued must display prominently and permanently affixed addressed plaques at all times.

D. Information From Residents: During the course of the initial address conversion and during subsequent addressing, information will be requested from residents, such information to include name of owner/occupant, mailing address, name of utility company serving the residents, utility account numbers and/or any other information deemed necessary by the Public Works Director to inform emergency services and utilities of the newly issued locational address. Confidentiality of information shall be assured by the Public Works Director.

E. Certification: The assignment of a locational address shall be deemed official following the issuance of a certificate by the Public Works Director.

F. Address Atlas: At the culmination of the initial address conversion, an address atlas shall be produced for use by emergency services and utility companies by the Public Works Director showing the location of all structures and frontage lots addressed. Copies of such atlas will be made available to interested persons or agencies at a cost to be determined by the City Clerk-Treasurer. (Ord. 1992-03, 6-12-1992)

9-2-5: ADDRESSING SUBSEQUENT TO INITIAL ADDRESS CONVERSION: Subsequent to the initial address conversion, addresses shall be issued in compliance with the following procedures:

A. Application For Address: An owner or agent proposing to locate any structure of residential or commercial use shall apply therefor to the Public Works Director on forms provided by that office. If the structure is proposed to be located along an unnamed private or public road, no address shall be issued until:

1. A legal road name has been adopted in conformity with this Chapter; and

2. An internal numerical road number has been issued by the Public Works Director; or

3. An existing road name has been verified and accepted by the Public Works Director.

B. Subdivisions: Subdivisions seeking approval by the City shall be assigned locational addresses prior to final subdivision approval. Certificates of address shall not be issued for subdivision lots until and unless such lots become occupied.

C. Replats Or Summary Approval Lots: Replats of lots receiving approval by the City or lots being created by summary procedure of the City shall be

assigned locational addresses, including any necessary readdressing prior to final replat or summary approval. Certificates of address shall not be issued for replat or summary approval lots until and unless such lots become occupied.
D. Certification; Address Plaques:

1. At the time of issuance of certificates of address, the Public Works Director shall issue an appropriate address plaque in the design approved by the City. This plaque shall be issued at no cost on a one time only basis. It shall be the responsibility of the owner/occupant/agent receiving the certificate of address to prominently and permanently affix said address plaque as directed by the Public Works Director within thirty (30) days of issuance of the plaque.
2. Address plaques lost, stolen or defaced shall be replaced at the expense of the owner/occupant/agent issued the certificate of address within thirty (30) days of such loss, theft or defacement.
3. Any frontage lot for which a certificate of address has been issued must display prominently and permanently affixed address plaques at all times in accordance with the provisions of this Chapter.

E. Address Required Before Permit Issuance: No City building permit, mobile home installation permit, special use permit, home occupation permit or other permit required by the zoning or the Uniform Building Code shall be issued without proof of certificate of address or other confirmation by the Public Works Director that the structure in question has received a locational address in accordance with the provisions of this Chapter. (Ord. 1992-03, 6-12-1992)

9-2-6: PENALTY: Any person convicted of a violation of this Chapter shall be subject to penalty as provided in Section 1-4-1 of this Code, in the discretion of the court. Each day that a violation of this Chapter exists shall constitute a separate offense. (Ord. 1992-03, 6-12-1992; amd. 2000 Code)

CHAPTER 3 SIDEWALKS REQUIRED

SECTION:

9-3-1: Definitions
9-3-2: Use In New Construction
9-3-3: In Lieu Fee
9-3-4: Penalty

9-3-1: DEFINITIONS: The following words and phrases have the following meanings when used in this chapter:

SIDEWALK: A concrete paved walkway four inches (4") thick and five feet (5') wide located along the front property line of the property in question. (Ord. 04-04, 4-20-2004)

9-3-2: USE IN NEW CONSTRUCTION: It shall be required that every person wishing to receive a building permit for the purpose of constructing a new commercial industrial or residential structure (including mobile homes) on any lot in the city shall construct a sidewalk prior to the issuance of a certificate of occupancy. This requirement shall only apply to those lots that have not had prior construction of buildings upon them. (Ord. 04-04, 4-20-2004)

9-3-3: IN LIEU FEE: The applicant for a building permit or property owner shall be allowed to pay an in lieu fee when it is determined by the community development director that the construction of a sidewalk is not possible due to terrain, lack of streets, or other physical impairment. The fee shall be calculated as follows:

The cost of a yard of concrete = "X". X divided by 27 equals "Y" (the cost per square foot of concrete).
Divide Y by 3.33 = "C" the cost per square foot of concrete 4 inches thick.

Then add C to $0.65 (labor per square foot) = "CL".

Then multiply CL times the width of the sidewalk which is 5 feet = "W".

Then W times the length of the sidewalk "S" will equal the total fee to be assessed.

(Example: concrete at $60.00 a yard, and a lot that is 70 feet wide; 60/27 = 2.22 then 2.22/3.33 + 0.66 then 0.66 + 0.65 = 1.31 then 1.31 * 5 = 6.55 then 6.55 * 70 = $458.50 fee)

The in lieu fee shall be held by the city in an account specifically for that property so that when the physical impediments to installation of the sidewalk are no longer in existence, the public works department will install the sidewalks utilizing the money held for that purpose. (Ord. 04-04, 4-20-2004)

9-3-4: PENALTY: Penalties for violation of the requirements of this chapter shall be as established in title 1, chapter 4 of this code. (Ord. 04-04, 4-20-2004)

CHAPTER 4 LOW VOLUME PLUMBING FIXTURES

SECTION:

9-4-1: Definitions
9-4-2: Use In New Construction
9-4-3: Retrofitting
9-4-4: Penalty

9-4-1:

DEFINITIONS: The following words and phrases have the following meanings when used in this chapter:

LOW VOLUME FAUCETS:

A faucet fixture that may only deliver a maximum of 2.5 GPM.

LOW VOLUME SHOWERHEADS:

LOW VOLUME TOILET:

NEW CONSTRUCTION:

A showerhead fixture that may only deliver a maximum of 2.5 gallons per minute (GPM).

A water waste fixture that uses 1.6 gallons or less of water per flush.

Any construction for which a building permit is required including industrial, commercial and residential. The installation or remodeling of a mobile home is also considered new construction. (Ord. 04-05, 4-20-2004)

9-4-2: USE IN NEW CONSTRUCTION: From the date of adoption of this chapter, all new building permits issued by the building department shall contain a note requiring that low volume toilets, faucets and showerheads be used. It shall be the responsibility of the building inspector to assure that these fixtures are installed prior to the issuance of a certificate of occupancy. (Ord. 04-05, 4-20-2004) 9-4-3: RETROFITTING: From the date of adoption of this chapter,
all new building permits issued by the building department shall contain a note requiring that low volume toilets, faucets and showerheads be installed in any existing building that is adjacent to the work being permitted, regardless of the age of the existing building. If the permit being issued is for work that will not be adjacent to any existing building then this requirement shall not apply. It shall be the responsibility of the building inspector to assure that these fixtures are installed prior to the issuance of a certificate of occupancy. (Ord. 04-05, 4-20-2004)

9-4-4: PENALTY: It shall be unlawful to install any faucet, toilet, or showerhead that does not meet the requirements of this chapter. Penalties for violation of the requirements of this chapter shall be as established in title 1, chapter 4 of this code. (Ord. 04-05, 4-20-2004)

CHAPTER 5

RENEWABLE ENERGY FINANCING DISTRICT

SECTION:

9-5-1: Title
9-5-2: Definitions
9-5-3: Formation of District
9-5-4: Inclusion of Property within District
9-5-5: Agreement to Include Real Property within District
9-5-6: Eligible Renewable Energy Improvements
9-5-7: Special Assessments; Assessment Resolution
9-5-8: Calculation and Collection of Special Assessments
9-5-9: Standards for Renewable Energy Improvements
9-5-10: Priority of Lien Created
9-5-11: Special Assessment Bonds
9-5-12: Direct Lender Financing of Improvements
9-5-13: District Governance and Administration

9-5-1: **TITLE:** This Chapter may be referred to as the Renewable Energy Financing District Ordinance. (Ord. 2018-2, 9-4-2018)

9-5-2: **DEFINITIONS:** As used in the Renewable Energy Financing District Ordinance:

ACT:	The Renewable Energy Financing District Act, NMSA §§ 5-18-1 et seq.
DISTRICT:	The Southern New Mexico Renewable Energy Financing District, formed pursuant to the Chapter.
OWNER or PROPERTY OWNER:	The person who is listed as the owner of real property in the district on the current property tax assessment roll, and who is in fact the legal owner of said real property.
RENEWABLE ENERGY IMPROVEMENT:	An eligible photovoltaic, solar thermal, geothermal or wind energy system permanently installed on real property. (Ord. 2018-2, 9-4-2018)

9-5-3: **FORMATION OF DISTRICT:**

A. A renewable energy financing district, to be known as the Southern New Mexico Renewable Energy Financing District, is formed in the City of Sunland Park with the powers provided for such a district in the Act, except as specifically limited by this Chapter.

B. The District shall serve the purpose of encouraging, accommodating and financing renewable energy improvements pursuant to the Act and this Chapter. (Ord. 2018-2, 9-4-2018)

9-5-4: **INCLUSION OF PROPERTY WITHIN DISTRICT:** The District shall include only property located within the City for which the owner thereof has submitted an application to the District and has agreed to the inclusion of such real property in the District. An owner may apply for and enter into agreements for the inclusion of real property, as provided in Section 9-5-5 of this Chapter. Inclusion of property in the District may occur at any time subsequent to the formation of the district. Real property shall be included in and assessed by the District as described in Section 9-5-7 of this Chapter. (Ord. 2018-2, 9-4-2018)

9-5-5: **AGREEMENT TO INCLUDE REAL PROPERTY WITHIN DISTRICT:** An owner wishing to have real property included in the District shall submit an agreement for the inclusion of real property in the District, to the District.

A. Application: The District shall accept as an application for inclusion of real property in the District, the form of Agreement specified as Exhibit "B" to the Resolution, or a document substantially similar thereto. Copies of the agreement to include real property within the District may be obtained from the offices of the District, or as otherwise specified by the District. Completed agreements, in the form specified by the District, shall be submitted to the District at such location as the District may specify from time to time. The District shall acknowledge the receipt of an application. The District may provide for agreements to be submitted or acknowledged by electronic means.

B. Agreement: To include real property within the District, each owner must submit an Agreement in a form substantially similar to Exhibit "B" to the Resolution, whereby such owner shall agree to the following:

1. Inclusion of real property within the District.

2. Imposition of a special assessment on real property to pay for the renewable energy improvements (including any lease thereof) and related costs, including installation, financing, and administrative costs.

3. Recording of the lien of the special assessment upon the real property to be included in the District.

4. Waiver of any claims against the City, the District, and their agents arising from inclusion of real property within the District. (Ord. 2018-2, 9-4-2018)

9-5-6: ELIGIBLE RENEWABLE ENERGY IMPROVEMENTS:

A. The following types of renewable energy improvements (including any lease thereof) are eligible for financing under the Act and ordinance when permanently installed on real property within the District:

1. Photovoltaic Systems;

2. Solar Thermal Systems;

3. Geothermal Systems; and

4. Wind Energy Systems.

The financed systems may include the cost of labor, materials, accessories, framing, and items necessary or incidental to the installation of the systems.

B. The costs of energy efficiency improvements (including any lease thereof) that are permanently installed on or affixed to property, which are designed to reduce energy consumption, or energy related operating costs, and installed or affixed to a property in conjunction with an eligible renewable energy improvement for the purpose of making the renewable energy improvement more cost effective, shall be eligible for financing through the District as part of the costs of the renewable energy improvement, so long as the costs of all improvements ancillary to the renewable energy improvement shall not exceed forty-nine percent (49%) of the total amount financed. The District may promulgate policies to further identify eligible energy efficiency improvements.

C. The District shall only finance renewable energy improvements (including any lease thereof) for which the reasonably estimated economic benefits, including, but not limited to, energy cost savings, maintenance cost savings, and other property operating savings expected from the improvements, including efficiency improvements pursuant to subsection B. above, during the financing period, is equal to or greater than the incremental principal cost of the improvement. (Ord. 2018-2, 9-4-2018)

9-5-7: SPECIAL ASSESSMENTS; ASSESSMENT RESOLUTION:

A. Inclusion of real property in the District will result in the imposition of special assessments on such real property in amounts necessary to pay the costs of permanently installing the approved renewable energy improvements and ancillary costs, including permit and inspection fees, and other ancillary costs required for an eligible improvement, the costs of financing, interest, and administrative fees charged by the District, the City, or their agents. The costs

of such improvements will be amortized over a period of time as determined by the District, not to exceed a maximum term of twenty (20) years.

B. Each owner shall acknowledge and consent to the assessment amount and amortization schedule as a condition of inclusion of the real property in the District.

C. Following acknowledgment and consent by the owner of the real property to be included in the District and satisfaction of the other requirements of the Act, this Chapter, and any policies or procedures promulgated by the District, the District Board shall adopt a resolution that includes the real property in the District and imposes the special assessment (the "Assessment Resolution"). An Assessment Resolution may include one or multiple parcels with separate ownership interests. That an Assessment Resolution may be enacted subsequent to the filing of a Special Assessment lien shall not invalidate such lien. (Ord. 2018-2, 9-4-2018)

9-5-8: **CALCULATION AND COLLECTION OF SPECIAL ASSESSMENTS:** The amount of Special Assessments shall be calculated pursuant to Section 9-5-7 of this Chapter. Special assessments may be collected at the same time and in the same manner as property taxes are collected or in other manners as the District Board may provide. District special assessments which have been financed by Direct Lending may be collected by the approved financing institution providing such financing, in accordance with the terms of the financing agreement agreed to by the Property Owner, and subject to any policies and procedures established by the District Board. Special assessments may be prepaid pursuant to procedures established by the District Board and identified in the Assessment Resolutions. (Ord. 2018-2, 9-4-2018)

9-5-9: **STANDARDS FOR RENEWABLE ENERGY IMPROVEMENTS:** The District Board shall set standards and requirements for the permanent installation of renewable energy improvements on real property within the District. Such standards and requirements shall be identified in a subsequent resolution of the District Board and shall, at minimum, include compliance with otherwise applicable state and local permitting requirements. (Ord. 2018-2, 9-4-2018)

9-5-10: **PRIORITY OF LIEN CREATED:**

A. A Special Assessment shall constitute a tax lien on the property, which shall be effective during the period in which the assessment is imposed and shall have priority over all other liens except liens for ad valorem property taxes; provided that only the delinquent portion of such special assessment shall have priority to liens for a first lien mortgage, as provided in subsection B. of this Section.

B. In the event a scheduled payment of the special assessment is not paid when due, the amount of the scheduled payment, late fees, and collection costs for

the payment, and only those amounts, shall have priority over a first lien mortgage. Payment of an obligation created under the Renewable Energy Financing District Act shall not accelerate for any reason, including late payments, and the property shall not be subject to an enforceable accelerated claim or lien superior to a first lien mortgage for the any portion of the obligation not yet scheduled to be due and payable, except as provided in subsection C. of this Section. In the event of a foreclosure, only the amount of due and unpaid scheduled payments, late fees, and collection costs for the due and unpaid payment shall have priority, and the remaining balance of the special assessment with all remaining interest and fees shall remain to be paid by future assessments until paid in full. Future payment obligations associated with a renewable energy improvement special assessment shall survive foreclosure by a first lien holder or junior lien holder if the proceeds from such foreclosure do not satisfy such future obligations. The amount of the scheduled payment may be changed to provide for full collection of all amounts within the term originally agreed upon.

C. Notwithstanding anything to the contrary in subsections A. and B. of this Section, in the event that a property encumbered by a special assessment is condemned in whole or part for public purposes, or be substantially damaged or destroyed by fire or other casualty, or should the renewable energy improvements be substantially damaged or destroyed by fire or other casualty, the remaining unpaid balance of the special assessment, including interest accrued to date, shall be due and payable.

D. There shall be no terms or conditions in the special assessment that limit the right of the owner to transfer property encumbered by a special assessment; provided, however, that property shall remain encumbered by the special assessment until such time as the obligation related to the special assessment is paid in full. (Ord. 2018-2, 9-4-2018)

9-5-11: **SPECIAL ASSESSMENT BONDS:**

A. The District may obtain funds to finance eligible improvements by means of borrowing from the City or from a private lender, or through the issuance of bonds. The District may also provide for direct private lending to finance eligible improvements, pursuant to NMSA § 16-511.

B. Should the District issue bonds, such issuance shall be in accordance with the relevant provisions of the Act and state law. No holder of special assessment bonds issued pursuant to the Act or the City's Ordinance may compel any exercise of the taxing power of the District or the City to pay the bonds or the interest on the bonds. Any special assessment bonds issued pursuant to the Act are not a debt or general obligation of the City, nor is the payment of special assessment bonds enforceable out of any money other than the revenue pledged to the payment of the bonds. (Ord. 2018-2, 9-4-2018)

9-5-12: **DIRECT LENDER FINANCING OF IMPROVEMENTS:** The District may provide for direct private lending to property owners for the purpose of financing eligible renewable energy improvements, as follows.

A. Only entities which are certified in accordance with the requirements of the financial institutions division of the regulation and licensing department as a solar energy improvement financing institutions shall be eligible to participate as direct lenders under this section.

B. An entity wishing to participate as a lender under this section shall execute an agreement with the District specifying the procedures by which the parties shall transfer any funds which are to be transferred pursuant to the Chapter. The agreement shall specify that neither the District nor the City is liable in any way for the debt of the property owner, neither is a third party obligor and neither is pledging or lending its credit to the owner or the lender.

C. If the District shall provide for direct private lending, an owner's application and agreement for property to be included in a Special Assessment shall specify the private entity lender, and all payment terms.

D. Upon the District's approval of an application and agreement for a Special Assessment with private lending and the lender's payment of any applicable administrative fees to the District, the lender shall be authorized to release funds to the property owner or the vendor of the eligible improvements. Prior to the release of funds, the lender shall cause to be filed a Special Assessment lien for its benefit and the benefit of the District. Such lien shall be as otherwise provided in this Chapter, and shall be released upon the owner's repayment of all amounts financed, and any additional interest or charges due to late payments. That the associated special assessment resolution may be enacted subsequent to the filing of a Special Assessment lien shall not invalidate such lien.

E. The District shall promptly transfer monies received from an owner's payments of a Special Assessment which are due to a private lender to that private lender. (Ord. 2018-2, 9-4-2018)

9-5-13: **DISTRICT GOVERNANCE AND ADMINISTRATION:**

A. The District Board shall be the City Council.

B. The District shall promulgate procedures for its operations, and those policies expressly delegated to it this Chapter.

C. The District may engage the services of a private entity to administer its functions under the supervision of the District Board, with expenses of administration to be a cost recovered through fees included in the Special Assessments. (Ord. 2018-2, 9-4-2018)

TITLE 10

ZONING REGULATIONS

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CHAPTER 1
ZONING DEFINITIONS
SECTION:
10-1-1: Definitions And Rules Of Construction
1 0-1 -1 : DEFINITIONS AND RULES OF CONSTRUCTION: In interpreting this Title, the following terms, words, or phrases used herein shall be interpreted as follows:
A. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
B. The words "shall" and "must" are mandatory, the word "may" is permissive.
ACCESSORY: Subordinate and incidental to a principal use or structure on the same lot.
ADULT BUSINESS RELATED TERMS:
Adult Amusement Establishment: An establishment that:
A. Provides amusement or entertainment which is distinguished or characterized by an emphasis on material depicting or relating to specified sexual activities or specific anatomical areas;
B. Features topless dancers, exotic dancers, strippers, male or female impersonators, topless/bottomless waitering, or similar entertainment.

C. Upon payment of a fee, provides an escort or partner to its patrons.
Adult Bookstore/ Video Store:
Specified Anatomical Areas:
A commercial establishment which has twenty percent (20%) or more of its floor space or one of its principal business purposes, which offers for sale or rental or for any form of consideration any one or more of the following:
A. Films, video tapes, video cassettes, or reproductions of video cassettes, photographs, slides, motion pictures, books, magazines, or other visual representations which are distinguished or characterized by their emphasis on matters depicting or describing "specified sexual activities" or "specified anatomical areas"; or
B. Instruments, devices or paraphernalia which are designated for use in connection with "specified sexual activities". A commercial establishment may have other principal business purposes that do not include the sale or rental of material depicted or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as an adult bookstore/video store if the use is a principal use based upon the visible inventory of commercial activity of the establishment.
Means and includes the male genitals in a state of sexual arousal or the vulva or more intimate parts of the female genitals.
Specified Sexual Activities: Means and includes any of the following:
A. The fondling or other erotic touching of human genitals, pubic region, anus, buttocks, or female breasts; or
B. Sex acts, normal or perverted, including intercourse, or oral copulation or sodomy; or
C. Masturbation; or City of Sunland Park

D. Excretory functions as part of or in connection with any of the activities set forth in subsections A through C of this definition.
ALLEY: A public thoroughfare which affords only a secondary means of access to abutting property.
APARTMENT: One or more structures containing three (3) or more dwelling

units each, located on one lot.

BASEMENT: The lowest habitable story of a building below ground level.

BOARDING OR ROOMING HOUSE: A dwelling unit containing up to and including five (5) guest rooms where lodging is provided, with or without meals, for compensation.

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

BUILDING: Any structure built for use of persons or animals.

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

BUILDING, MAIN: The building occupied by the primary use.

CENTER LINE: The line halfway between the street lines.

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

CLUB: Any membership organization catering exclusively to members and their guests and whose facilities are limited to meeting, eating and/or recreational uses, and further, whose activities are not conducted for monetary gains; including, but not limited to, civic, fraternal,

CONDITIONAL USE: charitable, religious, social and patriotic organizations.

CONDOMINIUM: An allowable land use, but which shall not be undertaken until such use is reviewed and approved by the City Planning and Zoning Commission. Since it is an allowable use, the City Planning and Zoning Commission may not deny it outright; however, the Commission may require the applicant to enter into enforceable agreements or undertakings restricting such use in the interest of the public welfare and the value of the property in that area.

One or more structures containing two (2) or more dwelling units each that are sold to and held under individual ownership by the occupants, and which may or may not include ownership of the land upon which the dwelling units are" situated. This includes townhouses, patiohouses, and other similar forms of individual ownership.

CONTIGUOUS: Touching or separated only by an alley or street.

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

DISTRICT: Any section of the City of Sunland Park where regulations governing the use of buildings and premises or the height and area of buildings and lot size are uniform.

DUPLEX: A building arranged, intended or designed to be occupied by two (2) families living independently of each other and having separate cooking facilities in each dwelling unit.

DWELLING, MULTIPLE-FAMILY: A building arranged or designed to be occupied by two (2) or more families living independently of each other and having separate cooking facilities in each dwelling unit.

DWELLING, SINGLE-FAMILY:
FRONTAGE:
GARAGE, COMMERCIAL:
GARAGE, PRIVATE:
A building arranged or designed to be occupied by one family (without more than 2 lodgers or boarders), the structure having only one dwelling unit, but not including a mobile home.
One or more connected rooms and a single kitchen designed for and occupied by no more than one family for living and sleeping purposes.
An individual or two (2) or more persons related by blood or marriage, or a group of not more than five (5) persons (excluding servants) who need not be related by blood or marriage, living together in a dwelling unit.
An area which is used for the growing of the usual farm products such as vegetables, fruit, fodder, trees and grain, and their storage on the area.
The total gross area of all floors of a building.
The relationship of the floor area to the lot area computed by dividing the floor area by the lot area.
The distance along a street line from one intersecting street to another or from one intersecting street to the end of a dead-end street. "Lot frontage" is the width of a lot measured along a street.
Any building or structure where automobiles, trucks, tractors, or other vehicles are stored, painted, repaired or equipped for a charge, and where the service and sale of gasoline and oil are incidental to the principal building use.
Any accessory building for the primary purpose of housing vehicles which are owned and used by the occupants of the main building.
DWELLING UNIT:
FAMILY:
FARM:
FLOOR AREA: FLOOR AREA RATIO:

GRADE:
HOME OCCUPATION:
LOT:
LOT, AREA:
LOT, CORNER:
LOT DEPTH:
LOT, DOUBLE FRONTAGE:
LOT LINE, FRONT:
LOT LINE, REAR:
LOT LINE, SIDE:
LOT WIDTH:
MAJOR RECREATIONAL EQUIPMENT:

The average of the finished ground level at the center of all walls of a building.
See Title 3, Chapter 4 of this Code for home occupation regulations.
Any parcel of land platted and placed on record in accordance with laws and ordinances described by plat or metes and bounds and having frontage on a public right of way.
The aggregate lot area measured to property lines.
Any lot located at the intersection of, and having frontage on, two (2) or more streets.
The average distance between the front and rear lot lines measured in the mean direction of the side lot lines.

Any lot with frontage on two (2) parallel or approximately parallel streets.
The boundary of a lot bordering on a street. For the purpose of determining setback requirements on corner lots and double frontage lots, all sides bordering on a street shall be considered the front.
The lot boundary line which is opposite and most distant from and not coterminous with the front lot line.
Any boundary line not a front lot line or a rear lot line.
The average distance between the side lot lines measured parallel to the front lot line.
Include boats and boat trailers, travel trailers, pickup campers or coaches (designed to be mounted on automotive vehicles), used for

transporting recreational equipment, whether occupied by such equipment or not.

MANUFACTURED HOME: A factory-built dwelling, which is manufactured or constructed under the authority of 42 USC section 5403, Federal Manufactured Home Construction and Safety Standards, which is not constructed with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A mobile home constructed to the Federal Manufactured Home Construction and Safety Standards is not a manufactured home unless it has been converted to real property and is taxed as a site built dwelling. For the purpose of any of these regulations, manufactured homes shall be considered the same as a single-family detached dwelling.

MOBILE HOME (MH): A manufactured, nonmotorized dwelling unit complete and ready for a long term occupancy, built on a permanent chassis for towing purposes, with minimum body dimensions of eight feet (8') wide by forty feet (40') long, built to be connected to utilities and placed on a foundation. A mobile home is designed specifically for single-family human habitation and can be identified by a model and serial number given by the builder and registered with the State of New Mexico, and by HUD seal.

MOBILE HOME LOT (MHL): A private owned parcel of land within a mobile home subdivision, including required yards, parking area, attached and/or detached accessory buildings and open spaces, used or intended to be used for setting up one mobile home. MHLs are the subdivided parcels of mobile home subdivisions and can be sold, fee simple, to prospective owners.

MOBILE HOME PARK: A parcel of land on which space is leased for terms of twelve (12) months or less, or rented

MOBILE HOME SPACE (MHSP): for occupancy for thirty (30) days or more by mobile homes, and which contains permanent facilities for the use of mobile home occupants.

MOBILE HOME SUBDIVISION: A parcel of land within a mobile home park rented or intended to be rented to prospective renters by the owner. MHSPs include required

yards, parking yards, parking areas, attached and/or detached accessory buildings, open spaces and utilities.

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

MODULAR DWELLING UNIT: A factory-fabricated transportable building designed to be used by itself or to be incorporated with similar units at a building site in a modular structure on a permanent foundation. The term is intended to apply to major assemblies which must conform to the local building codes, and does not include prefabricated panels, trusses, plumbing trees and other prefabricated sub-elements which are to be incorporated in a structure at the building site.

NONCONFORMING USES, LOTS, STRUCTURES: Any building, structure or portion thereof, or use of any building or land which does not conform to this Title and which lawfully existed on the effective date hereof but does not include a sign or advertising structure.

PERSON: Includes a firm, association, organization, partnership, trust, company or corporation as well as individual.

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

RECREATIONAL VEHICLE PARK (RVP): A tract of land at least two (2) acres in size, on which recreational vehicles are parked

temporarily in rental spaces for periods not exceeding ninety (90) days during any twelve (12) month period. Recreational vehicles may not be stored in RVPs.

SETBACK:

SIGN:

A parcel of land on which recreational vehicles are stored while not in use.

A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, and not designed to be permanently connected to utilities.

The required distance between every building or structure and any lot line on the lot on which it is located. Setbacks shall consist of an open space, unoccupied and unobstructed by any part of a building or structure, except as may be authorized by this Title.

A device designed to inform or attract the attention of persons not on the premises on which the sign is located; provided, however, that the following shall not be construed to be a sign:

A. Flags or government insignias, except when used in commercial displays.

B. Integral decorative or architectural features on buildings, except letters, trademarks, moving parts, or moving lights.

C. Illustration of names of occupants, post office box numbers and property numbers when smaller than one square foot.

D. Legal notice of identification, informational, or directional signs erected or required by governmental bodies.

RECREATIONAL VEHICLE STORAGE AREA (RVSA):

RECREATIONAL VEHICLE, TRAVEL TRAILER:

SIGN AREA:

E. Private traffic signs bearing no advertising matter.

F. Real estate advertising of the property on which the sign is located; provided,

that the area of the sign or group of signs is less than five (5) square feet.
G. Signs denoting the name and address of the occupants of the premises, the number of which shall not exceed three (3) and the area of each shall not exceed one square foot.
H. Professional nameplates that shall not exceed three (3) in number and the area of each shall not exceed one square foot.
I. Signs for home occupations, the number of which shall not exceed one and the area of which shall not exceed one square foot.
J. Signs for private daycare facilities and kindergartens, the number of which shall not exceed one and the area of which shall not exceed one square foot.
K. Signs denoting the architect, engineer or contractor placed on the premises where construction, repair or renovation is in progress, with a combined total surface area not exceeding four (4) square feet.
L. Signs for a temporary garage or yard sale which shall be located on the premises where the sale is conducted, the number of which shall not exceed one and the area of which shall not exceed two (2) square feet.
The total area that will contain the entire sign excluding architectural embellishments and supports on neither of which there is displayed any advertising material nor any lighting.

SIGN, FREESTANDING: A sign attached to or supported from the ground and not attached to a building.
SIGN, WALL:
STREET:
TOWNHOUSE:
TRAVEL TRAILER COURT OR CAMPGROUND:
VARIANCE:
WRECKING OR JUNKYARD:
A sign flush to the exterior surface of a building, whether applied directly on the building or a signboard attached flush to the building.
A thoroughfare which has been dedicated to the public or which has been made public by continuing use by the public for the period of time recognized by the law to create a street by adverse use of the public.
One of a group of attached dwelling units divided from each other by common walls and each having a separate entrance leading directly to the outdoors at ground level.
A lot, tract or parcel of land licensed and used or offered for use in whole or in part, for the parking of occupied travel trailers, pickup campers, converted buses, recreational vehicles, tent trailers, tents or similar devices used for temporary portable housing and used solely for living and/or sleeping purposes and which does not allow use for more than thirty (30) consecutive days.
A relaxation of the terms of this Title where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of this Title would result in unnecessary and undue hardship. As used in this Title, a variance may be authorized only for area, height, dimension, distance, setback, off-street parking, and off-street loading requirements or as elsewhere specifically authorized by this Title.
An area where automobiles or other types of equipment are dismantled for reasons of obtaining parts; or where wrecked or otherwise unserviceable automobiles are stored; or other

cases where sufficient used metal has been allowed to accumulate so as to cover an area larger than two hundred fifty (250) square feet. (Ord. 1985-03,

4-16-1985; amd. Ord. 1993-10, 11-1-1993; Ord. 1997-05, 12-8-1997; Ord. 1998-02, 4-7-1998; Ord. 1998-06, 10-6-1998; Ord. 1999-01, 1-5-1999; 2000 Code)

CHAPTER 2

ADMINISTRATION AND ENFORCEMENT

SECTION:

10-2-1: 10-2-2: 10-2-3: 10-2-4: 10-2-5:

Administrative Official
Building Permits
Certificates Of Zoning Compliance
Construction And Use; Compliance With Plans And Permits Penalty

10-2-1: ADMINISTRATIVE OFFICIAL:

A. Appointment: An administrative official designated by the Mayor, with the advice and consent of the City Council, shall enforce this Title. He may be provided with the assistance of such other persons as the Mayor, with the advice and consent of the City Council, appoints to enforce this Title.

B. Duties:

1. Notice Of Violation To Responsible Person: If the administrative official shall find that any of the provisions of this Title are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it.

2. Remedial Action: He shall order discontinuance of illegal use of land, buildings, or structure; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Title to ensure compliance with or to prevent violation of its provisions. (Ord. 1985-03, 4-16-1985)

10-2-2: BUILDING PERMITS:

A. Building Permits Required: No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefor, issued by the administrative official. No building permit shall be issued by the administrative official except in conformity with the provisions of this Title, unless he receives a written order from the Board of Adjustment in the form of an administrative review, conditional use, special exception, or variance as provided by this Title.

B. Application For Building Permit:

1. Plans And Information Required: All applications for building permits shall be accompanied by plans in duplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of all structures already existing, if any, and the location and dimensions of the proposed structure or alteration. The application shall include such other information as lawfully may be required by the administrative official, including existing or proposed buildings or alterations; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of, this Title.

2. Return Of Plans As Approved Or Disapproved: One copy of the plans shall be returned to the applicant by the administrative official, after he shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. The original and one copy of the plans, similarly marked, shall be retained by the administrative official.

C. Expiration Of Building Permit:

1. Time Limit To Begin: If the work described in any building permit has not begun within ninety (90) days from the date of issuance thereof, said permit shall expire; it shall be cancelled by the administrative official; and written notice thereof shall be given to the persons affected. (Ord. 1985-03, 4-16-1985)
2. Time Limit For Completion: If the work described in any building permit has not been substantially completed within one year of the date of issuance thereof, said permit shall expire and be cancelled

by the administrative official, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new building permit has been obtained. (Ord. 1985-03, 4-16-1985; amd. 2000 Code)

10-2-3: CERTIFICATES OF ZONING COMPLIANCE:

A. Certificate Required:

1. Use Or Occupancy: It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued therefor by the administrative official stating that the proposed use of the building or land conforms to the requirements of this Title.

2. Nonconforming Structure Or Use: No nonconforming structure or use shall be maintained, renewed, changed, or extended until a certificate of zoning compliance shall have been issued by the administrative official. The certificate of zoning compliance shall state specifically how the nonconforming use differs from the provisions of this Title; provided, that upon enactment of this Title, owners or occupants of nonconforming uses or structures shall have three (3) months to apply for certificates of zoning compliance. Failure to make such application within three (3) months shall be presumptive evidence that the property was a nonconforming use at the time of enactment or amendment of this Title.

B. Application For Certificate: No permit for erection, alteration, moving, or repair of any building shall be issued until an application has been made for a certificate of zoning compliance, and the certificate shall be issued in conformity with the provisions of this Title upon completion of the work.

C. Temporary Certificate: A temporary certificate of zoning compliance may be issued by the administrative official for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion; provided, that such temporary certificate may include such conditions and safeguards as will protect the safety of the occupants and the public.

D. Maintain Records: The administrative official shall maintain a record of all certificates of zoning compliance, and a copy shall be furnished upon request to any person.

E. Failure To Obtain Certificate: Failure to obtain a certificate of zoning compliance shall be a violation of this Title and punishable under Section 10-2-5 of this Chapter. (Ord. 1985-03, 4-16-1985)

10-2-4: CONSTRUCTION AND USE; COMPLIANCE WITH PLANS AND PERMITS: Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the administrative official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be a violation of this Title and punishable as provided by Section 10-2-5 of this Chapter. (Ord. 1985-03, 4-16-1985)

10-2-5: PENALTY: Any violation of this Title, in addition to any other remedy or punishment provided by law or ordinance, is punishable by a fine of not more than three hundred dollars ($300.00) or by imprisonment in the County jail for a term of not more than ninety (90) days, or by both such fine and imprisonment. Every day that any such violation continues constitutes a separate offense. (Ord. 1985-03, 4-16-1985)

CHAPTER 3
BOARD OF ADJUSTMENT
SECTION:

10-3-1: Board Established; Membership
10-3-2: Board Proceedings
10-3-3: Hearings; Appeals; Notice
10-3-4: Stay Of Proceedings

10-3-1: BOARD ESTABLISHED; MEMBERSHIP: A Board of Adjustment is hereby established, which shall consist of the members of the City Planning and Zoning Commission'. (Ord. 1985-03, 4-16-1985)

10-3-2: BOARD PROCEEDINGS:

A. Rules Of Conduct: The Board of Adjustment may adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Title.

B. Meetings: Meetings shall be held at the call of the chairman and at such other times as the Board may determine. All meetings shall be open to the public.

C. Oaths; Witnesses: The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

D. Minutes; Notice Of Proceedings: The Board of Adjustment shall keep minutes of its proceedings and provide notice of its proceedings in

1. See Title 2, Chapter 1 of this Code.

accordance with the Open Meetings Act' and Public Records Actg. (Ord. 1985-03, 4-16-1985)

10-3-3: HEARINGS; APPEALS; NOTICE:

A. Right To Appeal; Time Limit: Appeals to the Board of Adjustment concerning interpretation or administration of this Title may be taken by any person aggrieved by any decision of the administrative official. Such appeal shall be taken within a reasonable time, not to exceed ten (10) days after notice of the decision appealed, by filing with the administrative official and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The administrative official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

B. Hearing Date; Notice: The Board of Adjustment shall fix a reasonable time for the hearing of appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.

C. Appeals To City Council: Appeals from any decision of the Board of Adjustment shall be to the City Council. They shall be made within the same time and manner as appeals to the Board of Adjustment. (Ord. 1985-03, 4-16-1985)

10-3-4: STAY OF PROCEEDINGS: An appeal stays all proceedings in furtherance of the action appealed from, unless the administrative official from whom the appeal is taken certifies to the Board of Adjustment, after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of competent jurisdiction on

proper application and showing of competent evidence. (Ord. 1985-03, 4-16-1985; amd. 2000 Code)

1. NMSA § 10-15-1.1 et seq.
2. NMSA § 14-2-1 et seq.

CHAPTER 4
ZONING DISTRICTS; MAP

Official Zoning Map
Replacement Of Official Zoning Map
Zone District Boundaries Established
Rules For Interpretation Of District Boundaries
Application Of District Regulations
Residential Uses Prohibited In Commercial And Industrial Districts

SECTION:

10-4-1: 10-4-2: 10-4-3: 10-4-4: 10-4-5: 10-4-6:

10-4-1: OFFICIAL ZONING MAP:

A. Map Adopted By Reference: The City is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory material thereon, is hereby adopted by reference and declared to be a part of this Title.

B. Map Certification: The Official Zoning Map shall be identified by the signature of the Mayor attested to by the City Glerk-Treasurer, and bear the Seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 1 of Ordinance Number 1985-03 of the City of Sunland Park, said Ordinance dated the 16th day of April, 1985", together with the date of the adoption of this Title.

C. Amendment Of Map: If, in accordance with the provisions of this Title and New Mexico Statutes Annotated section 3-21-1 et seq., changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Council, with an entry on the Official Zoning Map as follows: "On (date), by official action of the City Council, the following (change) changes were made in the Official Zoning Map: (brief description of nature of change)", which entry shall be signed by the

Mayor and attested by the City Clerk-Treasurer. No amendment to this Title which involves material portrayed on the Official Zoning Map shall become effective until after change and entry has been made on said Map.

D. Unauthorized Changes A Violation: No changes of any nature shall be made in the Official Zoning Map or material shown thereon except in conformity with the procedure set forth in this Title. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Title and punishable as provided under Section 10-2-5 of this Title.

E. Map On File In Clerk-Treasurer's Office: Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map shall be located in the office of the City Clerk-Treasurer and shall be the final authority as to the current zoning status of land, and structures in the City or in the City's extra-territorial zoning jurisdiction at such time as zoning is approved for this extraterritorial area pursuant to New Mexico Statutes Annotated section 3-21-3. (Ord. 1985-03, 4-16-1985)

10-4-2: REPLACEMENT OF OFFICIAL ZONING MAP:

A. Procedure: In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of

changes and additions, the City Council may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other clerical, typographical nonsubstantive errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor attested to by the City Clerk-Treasurer, and bear the Seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of Map being replaced) as part of Ordinance No. of the City of Sunland Park".

B. Preservation Of Original Map: Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior Map or any significant parts thereof remaining, shall be preserved, together with

all available records pertaining to its adoption or amendment. (Ord. 1985-03, 4-16-1985)

10-4-3: ZONE DISTRICT BOUNDARIES ESTABLISHED:

A. Division Into Districts: In order to carry out the provisions of this Title, the City and territory in its extra-territorial zoning jurisdiction at such time as zoning is approved for this extra-territorial area pursuant to New Mexico Statutes Annotated section 3-21-1 et seq., is hereby divided into zone districts, as named and described in the following sections. The regulations prescribed in this Title shall apply within the corporate limits of the City and to the territory in its extra-territorial zoning jurisdiction at such time as zoning is approved for this extra-territorial area pursuant to New Mexico Statutes Annotated section 3-21-3.

B. Boundaries Shown On Map: The boundaries of said zone districts are hereby established as shown on the Official Zoning Map.

C. Uncertainty Of Boundary Lines: Where due to the scale, lack of detail or illegibility of the Official Zoning Map, there is any uncertainty, contradiction or conflict as to the intended location of any district boundaries shown thereon, interpretation concerning the exact location of a zone district boundary line shall, upon a written request, be determined by the Board of Adjustment.

D. Frontage On Public Right Of Way: Abutting zone districts along frontage on a public right of way shall automatically extend to the center line upon vacation from public use of said right of way. (Ord. 1985-03, 4-16-1985)

10-4-4: RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES: Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

A. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines.

B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

C. Boundaries indicated as approximately following City limits shall be construed as following such City limits.

D. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

E. Boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.

F. Boundaries indicated as parallel to or extensions of features indicated in subsections A through E of this Section shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the Map.

G. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections A through F above, the Board of Adjustment shall interpret the district boundaries.

H. Where a district boundary line divides a lot which was in single ownership at the time of passage of this Title and where such lot was created as part of a properly approved and filed subdivision, the Board of Adjustment may permit, as a special exception, the extension of the regulations for either portion of the lot into the remaining portion of the lot. If such lot was not created as a part of a properly approved and filed subdivision, the more restrictive regulations for either portion of the lot shall apply into the remaining portion of the lot and the Board of Adjustment may permit, as a special exception, the extension of the less restrictive regulations to the entire lot only after such lot is approved and filed pursuant to the subdivision regulations. (Ord. 1985-03, 4-16-1985)

10-4-5: APPLICATION OF DISTRICT REGULATIONS:

A. Minimum Regulations: The regulations set by this Title within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land.

B. Compliance With District Regulations: No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

Compliance With Conditions And Limitations: No building or other structure shall hereafter be erected or altered:

1. To exceed the height or bulk;
2. To accommodate or house a greater number of families;
3. To occupy a greater percentage of lot area;
4. To have narrower or smaller rear yards, front yards, side yards, or other open spaces;

than herein required; or in any other manner contrary to the provisions of this Title.

D. Yards, Open Spaces And Parking: No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building, for the purpose of complying with this Title, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

E. Yard Or Lot Dimensions: No yard or lot existing at the time of passage of this Title shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date hereof shall meet at least the minimum requirements established by this Title.

F. Zoning Of Annexed Land: At such time as territory may hereafter be annexed to the City, it shall continue to be zoned and subject to such land use restrictions as prior to such annexation. Provided, however, if such territory is not subject to zoning or land use restrictions, the City Council shall, as a condition of such annexation, zone such territory. (Ord. 1985-03, 4-16-1985)

10-4-6: RESIDENTIAL USES PROHIBITED IN COMMERCIAL AND INDUSTRIAL DISTRICTS: Notwithstanding any other provision to the contrary herein, residential uses are prohibited in C-1 Light Commercial, C-2 General Commercial, M-1 Light Industrial and M-2 Heavy Industrial Zones. (Ord. 1987-03, 1-6-1987; amd. Ord. 1998-06, 10-6-1998)

CHAPTER 5
RESIDENTIAL DISTRICTS
ARTICLE A. RE RURAL ESTATE DISTRICT
SECTION:

10-5A-1: Purpose
10-5A-2: Permissive Uses
10-5A-3: Conditional Uses
10-5A-4: Area Requirements
10-5A-5: Height Limitations
10-5A-6: Off-Street Parking
10-5A-7: Signs

10-5A-1: PURPOSE: The purpose of this Zone is to provide for agricultural activities and low density residential uses that are conducive to a rural atmosphere and to allow conventional on-site constructed single-family dwelling units. (Ord. 1985-03, 4-16-1985)

10-5A-2: PERMISSIVE USES: One single-family dwelling unit per lot. Agricultural activities, as follows, provided the lot has an area of at least two (2) acres:

A. Home occupation related to the raising of agricultural products or horses.

B. Swine, fowl, goats, sheep, and cattle are prohibited.

Incidental structures such as private workshops, storage or greenhouse, of similar construction appearance as the main residence.

Nursery products, the raising of. (Ord. 1985-03, 4-16-1985)

10-5A-3: CONDITIONAL USES: A use permit shall be required for the following conditional uses:

Churches, hospitals, schools, and religious and philanthropic institutions; provided, however, that such uses shall be located on sites of sufficient size to meet off-street parking requirements of this Title and to provide setback from all property lines a distance of at least one foot (1') for each foot of building height.

Kennel, veterinary hospital. (Ord. 1985-03, 4-16-1985)

10-5A-4: AREA REQUIREMENTS:

A. Minimum Lot Area: Six thousand feet (6,000').

B. Minimum Yards:

1. Front: Twenty feet (20').

2. Side: Five feet (5').

3. Rear: Fifteen feet (15'). (Ord. 1985-03, 4-16-1985)

10-5A-5: HEIGHT LIMITATIONS: No building or structure shall exceed thirty five feet (35') in height; except, however, accessory objects usually required to be placed above the roof level and not intended for human occupancy, may exceed this height. (Ord. 1985-03, 4-16-1985)

10-5A-6: OFF-STREET PARKING: Off-street parking requirements shall be as provided in Chapter 13 of this Title. (Ord. 1985-03, 4-16-1985)

10-5A-7: SIGNS: Sign restrictions shall be as provided in Chapter 14 of this Title. (Ord. 1985-03, 4-16-1985)

CHAPTER 5

RESIDENTIAL DISTRICTS

ARTICLE B. RE-1 AGRICULTURAL RURAL ESTATE DISTRICT

SECTION:

10-5B-1: Purpose
10-5B-2: Permissive Uses and Limitations
10-5B-3: Community Review

10-5B-1: **PURPOSE:** The purpose of this zone is to provide for single-family residential uses and agricultural activities in a semi-rural atmosphere with acreage lots. (Ord. 1998-01, 2-3-1998; amd. Ord. 2006-07, 5-16-2006)

10-5B-2: **PERMISSIVE USES AND LIMITATIONS:** Site-built single-family detached structures, limited agricultural uses and accessory structures.

A. Size and Location:

1. Lot Size: Minimum parcel size shall be no less than one (1) acre.

2. Density: Housing density shall permit no more than one (1) residential structure per one (1) acre of land and not more than one (1) residence per legally divided lot.

3. Dwelling Unit Size: The minimum dwelling unit size may not be less than one thousand seven hundred (1,700) gross square feet. The maximum dwelling unit size shall be restricted by height and setback regulations.

4. Main Structure Setbacks: Minimum setbacks for the main structure, including covered porches, attached garage or attached carport:

(a) Front: forty-five feet (45').

(b) Side: fifteen feet (15').

(c) Rear: twenty feet (20').

5. Accessory Structure Setbacks: Minimum setbacks for accessory structures of any size, use, or type of construction, including covered porches, garages, or carports:

(a) Front: forty-five feet (45').

(b) Side: fifteen feet (15').

(c) Rear: twenty feet (20').

(d) From main structure: ten feet (10').

6. Height Limitations: No buildings or structures shall exceed two (2) stories in height for single-family dwellings or more than thirty-five feet (35') for all other structures or buildings, except, however, accessory objects usually required to be placed above the roof level and not intended for human occupancy, may exceed this height.

B. Fencing:

1. Height: Fencing, or garden walls, temporary or permanent, built on the front setback area of the property can not be over thirty inches (30") in height of solid wall, the wall may be built six feet (6') in height provided the Section above the thirty inch (30") solid wall has six foot (6') spans between each six foot (6') column, between each column rod iron can be used to fill in the remaining forty-two inches (42") above the thirty inch (30") solid wall. The maximum height of a fence in front or behind the front setback area shall not exceed six feet (6').

2. Materials: All fencing in the front setback shall be of rock or masonry materials. Chain link fencing shall not be installed in the front setback area or on a side lot line abutting a side street. Chain link fencing may be allowed in all other areas if approved by the planning and zoning commission through the special use permit procedure.

C. Agricultural Activities: Only the following agricultural activities shall be allowed, those uses not listed or that are more intense, may be allowed if a special use permit is granted by the planning and zoning commission:

1. Large Farm Animals: Not more than three (3) of any combination of large (forty-four inches (44") or higher, measured from the shoulder) farm animals such as horses, llamas, cattle, etcetera may be raised, reared or kept per one (1) acre of land plus one (1) additional animal for each additional one-half (1/2) acre thereafter, provided they are not kept, reared or maintained for any commercial purposes and that the premises be kept in a sanitary condition free of noxious and offensive odors and pestulants. Non-farm animals (pets) such as dogs, cats, pigeons, fish, snakes, etcetera are regulated by title 5, chapter 2 of this code.

2. Small Farm Animals: Not more than twenty (20) or any combination of small (forty-four inches (44") or smaller, measured from the shoulder) farm animals such as chickens, geese, pigs, rabbits, etcetera shall be permitted; provided, that they are maintained in a confined manner which will not endanger or harm the overall health of the community or obstruct other uses within this zone and are not kept, reared or maintained for any commercial

purposes. Non-farm animals (pets) such as dogs, cats, pigeons, fish, snakes, etcetera are regulated by title 5, chapter 2 of this code.

3. Small-scale Agricultural Plots: On property of one (1) acre in size or less, small-scale agricultural plots, or what is generally referred to as "sustainable systems" or "house gardens", are permitted to be incorporated into the landscape including the growing of medicinal herbs, native plants, vegetables, and fruit and nut trees; provided, that these uses do not endanger or harm the overall health of the community.

4. Large Scale Agricultural Uses: On properties larger than one (1) acre in size, commercial scale agricultural uses are allowed. This is to include only the growing of plants and related activities for agricultural purposes and does not include processing, packaging, sale, silo storage, or manufacturing processes.

5. Greenhouses: Greenhouses are permitted for growing high-value, space intensive crops and sprouting seedlings.

D. Architecture For Accessory Structures: No building or structure shall be erected or altered on any lot unless the same is done in good and workmanlike manner and such building or structure shall be maintained in neat outward appearance. Exterior walls of any buildings and improvements shall be constructed of new materials, and all exterior surfaces shall be painted with at least two (2) coats of good quality paint. Garages and second living quarters shall be constructed of the same material as the main dwelling.

E. Use Of Gray Water: The collection and reuse of wash and bath or "gray" water shall be permitted within the confines of an individual owner's residential area for house gardens, ornamentals, and enhancement of native vegetation.

F. Mobile Homes: Mobile homes are prohibited. (Ord. 1998-01, 2-3-1998; amd. Ord. 2006-07, 5-16-2006)

10-5B-3: **COMMUNITY REVIEW:** The community development department may require that any structure, use or activity be reviewed by the community's architectural control committee, homeowner's association, or similar instrument should one exist. Said review shall take place prior to review by the city of an application for any type of building permit proposed to be issued on the property. (Ord. 1998-01, 2-3-1998; amd. Ord. 2006-07, 5-16-2006)

CHAPTER 5
RESIDENTIAL DISTRICTS
ARTICLE C. R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT
SECTION:
10-5C-1: Intent
10-5C-2: Permissive Uses
10-5C-3: Conditional Uses
10-5C-4: Area Requirements
10-5C-5: Height Requirements
10-5C-6: Off-Street Parking
10-5C-7: Signs
10-5C-8: Finish Grade And Natural Ground Grade
10-5C-1: INTENT: The intent of this Zone is to allow only conventional on-site constructed single-family dwelling units and those uses which maintain the predominantly residential nature of the District. (Ord. 1998-05, 10-6-1998)

10-5C-2: PERMISSIVE USES: One single-family dwelling unit per lot.

Accessory uses or buildings customarily incidental to a residential area, including work shops, garages, etc.

Storage of a boat, camper, trailer or other major recreational equipment as long as such boat, camper, trailer or vehicle is not used as a dwelling or accessory living quarters and is not connected to utilities. The boat, camper, trailer, or vehicle must be stored in a rear yard, and may not be parked in the front yard or street for more than a twenty four (24) hour period. (Ord. 1985-03, 4-16-1985; amd. Ord. 1989-04, 6-7-1989)

10-5C-3: CONDITIONAL USES: A use permit shall be required for the following conditional uses:

The construction of one single-family dwelling unit; provided, that, prior to construction of such unit, a building permit is obtained from the City; and provided, that the duration of construction for such unit from start to completion does not exceed two (2) years. Mobile homes or trailers, connected to available utilities and used as living quarters during the construction of a building on the premises, is eligible only for a one year permit. Such a permit shall not be renewed for more than one additional one year period. After a permit has expired, the mobile home or trailer shall be removed from the site.

Churches.

Hospitals or clinics.

Real estate sales office in connection with a specific development, allowable only as a renewable conditional for six (6) months at a time.

Recreational facility (nonprofit) such as a community center, swimming pool, or tennis club.

Schools.

Any other use which is compatible, as determined by the Planning and Zoning Commission, with the residential nature of this Zone, and shall be considered for approval only after a public hearing for which the adjacent property owners within three hundred feet (300') have been notified at least ten (10) days prior to the hearing. (Ord. 1985-03, 4-16-1985; amd. Ord. 1989-04, 6-7-1989)

10-5C-4: AREA REQUIREMENTS:

A. Minimum Lot Area: Six thousand (6,000) square feet.

B. Minimum Yards:

1. Front: Twenty feet (20').

2. Side: Five feet (5'), except on a corner lot the minimum setback on the street must be ten feet (10').
3. Rear: Fifteen feet (15'). (Ord. 1985-03, 4-16-1985)

10-5C-5: HEIGHT REQUIREMENTS: No building or structure shall exceed thirty five feet (35') in height; except, however, accessory objects usually required to be placed above the roof level and not intended for human occupancy may exceed this height. (Ord. 1985-03, 4-16-1985)
10-5C-6: OFF-STREET PARKING: Off-street parking requirements shall be as provided in Chapter 13 of this Title. (Ord. 1985-03, 4-16-1985)
10-5C-7: SIGNS: Sign restrictions shall be as provided in Chapter 14 of this Title. (Ord. 1985-03, 4-16-1985)
10-5C-8: FINISH GRADE AND NATURAL GROUND GRADE:
A. All dwellings, conventional or manufactured homes, shall maintain a minimum of six inches (6") to a maximum of twelve inches (12") finish floor level above finish grade.
B. "Natural ground grade" shall be defined as the existing grade before placement of manufactured home or slab. "Finish grade" shall be defined as the finish floor of the home minus six inches (6") and sloping away from the home. The finish grade may or may not be the same as the natural grade. (Ord. 1998-05, 10-6-1998)

CHAPTER 5
RESIDENTIAL DISTRICTS
ARTICLE D. TC SINGLE-FAMILY TOWNHOUSE AND CONDOMINIUMS DISTRICT
SECTION:
10-5D-1: Intent
10-5D-2: Permissive Uses
10-5D-3: Conditional Uses
10-5D-4: Area Requirements
10-5D-5: Height Limitations
10-5D-6: Off-Street Parking
10-5D-7: Signs
10-5D-8: Usable Open Space
10-5D-9: Special Site Conditions
10-5D-1: INTENT: The intent of this Zone is to provide for sites for townhouses, condominiums, and uses incidental thereto. (Ord. 1985-03, 4-16-1985)
10-5D-2: PERMISSIVE USES: Permissive uses include all uses permissive in the R-1 Zone. (Ord. 1985-03, 4-16-1985)
10-5D-3: CONDITIONAL USES:
A. Uses conditional in the R-1 Zone.
B. Such other uses specifically granted by the City Planning and Zoning Commission to implement the development plan including waivers of provisions or regulations as necessary. (Ord. 1985-03, 4-16-1985; amd. 2000 Code)

10-5D-4: AREA REQUIREMENTS:
A. Minimum Lot Area: Three thousand (3,000) square feet per townhouse. Townhouse lots shall have a width of not less than twenty four feet (24') per dwelling unit. (Ord. 1989-04, 6-7-1989)
B. Yards: No minimum yard size for condominiums; however, townhouses shall have the following minimum yard sizes:
1. Front: Fifteen feet (15'), except where frontage is on a standard residential street

as an extension of R-1 Zone development or which street extends to serve R-1 Zone development; in which case, regulations pertaining to R-1 Zone setback shall apply and, also, except that setback for a carport shall be not less than twenty feet (20') or five feet (5') greater than principal building.
2. Side: No required side yard setback, except there shall be not less than fifteen feet (15') on the intersecting street side of corner lots; and where a standard residential street is to become the side frontage, the provisions of subsection B1 above shall apply.
3. Rear: Fifteen feet (15'). (Ord. 1985-03, 4-16-1985)
C. Floor Area Ratio To Lot Size: The maximum floor area ratio to lot size shall be 0.6. (Ord. 1989-04, 6-7-1989)
10-5D-5: HEIGHT LIMITATIONS: Height limitations shall be the same as R-1 Zone. (Ord. 1985-03, 4-16-1985)
10-5D-6: OFF-STREET PARKING: Two (2) off-street parking spaces per dwelling unit plus one space additional for each bathroom in the unit over one. (Ord. 1985-03, 4-16-1985)
10-5D-7: SIGNS: Sign restrictions shall be the same as R-1 Zone. (Ord. 1985-03, 4-16-1985)
10-5D-8: USABLE OPEN SPACE: There shall be provided on site a minimum of seven hundred fifty (750) square feet of usable open space per dwelling unit. (Ord. 1985-03, 4-16-1985)
City of Sunland Park
10-5D-9 10-5D-9
10-5D-9: SPECIAL SITE CONDITIONS: A townhouse, condominium area may be planned and developed to include irregular street alignment and minimum widths, on-site drainage without curb and gutter and with protective provisions for shoulders as determined by the technical staff of the City, and bicycle paths and walkways as are conducive to the purposes of the development. Nothing herein shall be construed to waive applicable standards for construction of asphalt streets. (Ord. 1985-03, 4-16-1985)
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10-5E-1 10-5E-2
CHAPTER 5
RESIDENTIAL DISTRICTS
ARTICLE E. MR MIXED RESIDENTIAL DISTRICT
SECTION:
10-5E-1: Purpose
10-5E-2: Permissive Uses
10-5E-3: Conditional Uses
10-5E-4: Area Requirements
10-5E-5: Height Requirements
10-5E-6: Off-Street Parking
10-5E-7: Signs
10-5E-1: PURPOSE: The purpose of this Zone is to provide for the development of residential housing and certain other uses which are compatible with the development of the neighborhood. (Ord. 1985-03, 4-16-1985)
10-5E-2: PERMISSIVE USES:
A. Dwellings, Mobile Homes And Modular Dwelling Units:
1. Placement Permit Required: One single-family dwelling per lot, including mobile homes and modular dwelling units; provided, however, that prior to placement of a dwelling unit, a permit shall be acquired from the City Building Inspector. On application for the permit, the applicant must show that a mobile home is:
a. As defined in Section 10-1-1 of this Title.
b. Will be stabilized and anchored in accordance with the Manufactured Housing Act

of New Mexico'.
1. NMSA §§ 60-14-1 to 60-14-18.

2. Certificate Of Occupancy Required: Subsequent to placement of the mobile home and inspection by the City Building Inspector, approving the placement, a mobile home shall not be occupied until an occupancy permit has been granted by the City Building Inspector. An occupancy permit shall not be granted until:
a. Skirting: The mobile home is completely skirted with solid and aesthetically compatible material of the same type, color, and texture as the outer siding of the mobile home.
b. Deck Or Porch: A solid deck or porch area, which need not be covered or enclosed, is constructed at the main entrance which is at least equal in size to five percent (5%) of the heated area of the mobile home.
3. Fences Or Walls: If fences or walls are constructed, they shall be approved by the City Building Inspector. If constructed, they shall be a minimum of three and one-half feet (3h/2') high but no more than two and one-half feet (2V2') high in front and on sides of front yards. They shall be constructed in such a manner as not to cause increased quantity or velocity of runoff to neighboring property. (Ord. 1989-04, 6-7-1989)
4. Noncompliance; Removal Of Mobile Home: Failure to comply with all requirements of this Article shall require removal of the mobile home within a twenty (20) day period. After failure to comply within the twenty (20) day period, the owner shall be subject to Section 10-2-5 of this Title. (Ord. 1986-16, 6-17-1986)
B. Apartments and duplex units. (Ord. 1985-03, 4-16-1985)
10-5E-3: CONDITIONAL USES: A use permit shall be required for the following conditional uses:
The construction of one single-family dwelling unit, addition to a mobile home or a dwelling unit, the construction of an approved accessory building or a use customarily incidental to a residential area including workshops, garages, etc.; provided, that a building permit is acquired from the City Building Inspector prior to the construction of any building, and provided that the duration of construction of any building does not exceed two (2) years.
Church and incidental facilities.

Noncommercial library, museum and art gallery.
Public utility structure, such as transformer, switching, pumping, and similar technical operations essential to the operation of a public utility, but not including a power generation plant.
Recreation facility (community, nonprofit).
Schools. (Ord. 1985-03, 4-16-1985; amd. Ord. 1989-04, 6-7-1989)
10-5E-4: AREA REQUIREMENTS:
A. Minimum Lot Area: Six thousand (6,000) square feet.
B. Minimum Yards:
1. Front (Not Including Hitches): Fifteen feet (15') except twenty feet (20') in front of garages and carports.
2. Side: Seven and five-tenths feet (7.5'), except on a corner lot the minimum side yard shall be ten feet (10').
3. Rear: Fifteen feet (15'). (Ord. 1989-04, 6-7-1989; amd. 2000 Code)
10-5E-5: HEIGHT REQUIREMENTS: Same as for R-1 Zone. (Ord. 1989-04, 6-7-1989)
10-5E-6: OFF-STREET PARKING: Off-street parking shall be as provided in Chapter 13 of this Title. (Ord. 1985-03, 4-16-1985)
10-5E-7: SIGNS: Signs shall be limited as provided in Chapter 14 of this Title. (Ord. 1985-03, 4-16-1985)

CHAPTER 5
RESIDENTIAL DISTRICTS
ARTICLE F. MF MULTI-FAMILY RESIDENTIAL DISTRICT
SECTION:

10-5F-1: Purpose
10-5F-2: Permissive Uses
10-5F-3: Conditional Uses
10-5F-4: Area Requirements
10-5F-5: Height Requirements
10-5F-6: Off-Street Parking
10-5F-7: Signs
10-5F-1: PURPOSE: The purpose of this Zone is to allow higher density residential uses. (Ord. 1985-03, 4-16-1985)
10-5F-2: PERMISSIVE USES:
A. Permissive uses as allowed in R-1 Zone.
B. Apartments and duplex units. (Ord. 1985-03, 4-16-1985)
10-5F-3: CONDITIONAL USES: A use permit shall be required for the following conditional uses:
Churches.
Hospitals or clinics.
Professional and semi-professional offices.

Real estate sales office in connection with a specific development, allowable only as a renewable conditional use for six (6) month period at a time.
Recreational facility (nonprofit) such as a community center, swimming pool, or tennis club.
Any other use which is compatible, as determined by the Planning and Zoning Commission, with the residential nature of this Zone, and shall be considered for approval only after a public hearing for which the adjacent property owners within three hundred feet (300') have been notified at least ten (10) days prior to the hearing. (Ord. 1989-04, 6-7-1989)
10-5F-4: AREA REQUIREMENTS:
A. Minimum Lot Area: Four thousand (4,000) square feet per dwelling unit for the first two (2) dwelling units plus nine hundred (900) square feet for every additional dwelling unit over the second dwelling unit. (Ord. 1990-07, 11-7-1990; amd. 2000 Code)
B. Minimum Dwelling Unit Size: Eight hundred fifty (850) square feet.
C. Minimum Yards:
1. Front: Fifteen feet (15') except twenty feet (20') in the front of garages and carports.
2. Side: Seven and one-half feet (7.5') except on a corner lot, the minimum side yard is ten feet (10').
3. Rear: Fifteen feet (15').
4. Floor Area Ratio: The maximum floor area ratio to lot size shall be 0.60.
D. Minimum Lot Dimensions:
1. Width: Fifty five feet (55').
2. Depth: One hundred feet (100').
E. Variances: Variances to any of the above restrictions will be reviewed on a case-by-case basis. Final variance approval will be given by the City Council. (Ord. 1990-07, 11-7-1990)

10-5F-5: HEIGHT REQUIREMENTS: No building or structure shall exceed forty five feet (45'). (Ord. 1985-03, 4-16-1985)
10-5F-6: OFF-STREET PARKING: Off-street parking requirements shall be as provided in Chapter 13 of this Title. (Ord. 1985-03, 4-16-1985)
10-5F-7: SIGNS: Signs shall be limited as provided in Chapter 14 of this Title. (Ord. 1985-03, 4-16-1985)
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10-5G-1 10-5G-1
CHAPTER 5
RESIDENTIAL DISTRICTS
ARTICLE G. PD PRESERVATION DISTRICT
SECTION:

10-5G-1: Intent And Purpose
10-5G-2: Permissive Uses
10-5G-3: Conditional Uses
10-5G-4: Prohibited Uses
10-5G-5: Density
10-5G-6: Lot Dimensions
10-5G-7: Development Standards
10-5G-1: INTENT AND PURPOSE: The intent of the city of Sunland Park in creating this zone designation is to provide for the protection and preservation of environmentally and culturally vulnerable areas. The city recognizes that as the steward of the land within its jurisdiction it has an obligation to preserve vistas, view sheds, archeological, paleontological, and/or historical sites, ecologically sensitive areas and places of significance to the citizens of the city and the region. Further, it is the intent that this designation apply to land that for the most part has development constraints due to topography, location, access, lack of infrastructure, and lack of the availability of basic services. It is therefore necessary to limit the intensity of development to large tracts of land.
A. The preservation district zone designation is to be placed on property when the following circumstances are present:
1. When by the nature of its use, such as regional transmission of electricity, or its natural limitation, such as being subject to flooding, severe slopes, difficult terrain, difficult access, lack of appropriate infrastructure, archeological, paleontological, and/or historical sites, or a view shed to be protected for posterity make the property inappropriate for habitation or intensive development. (Ord. 03-06, 8-5-2003)
April 2005 City of Sunland Park
10-5G-2 10-5G-5
10-5G-2: PERMISSIVE USES: i4, Agriculture.
Residential uses at a density of not less than one unit per forty (40) acres. (Ord. 03-06, 8-5-2003)
10-5G-3: CONDITIONAL USES: The following uses may be permitted subject to a conditional use permit:
1 t
Grading operations for road construction.
Private recreational facilities and ancillary commercial uses such as snack bars and gift shops that are a subordinate part or element of the facility.
Public parks and recreation facilities.
Public utility structures and public service facilities that serve a regional or interstate purpose.
Other uses not involving buildings or other permanent improvements, and not involving the permanent scarring or destruction of land forms. (Ord. 03-06, 8-5-2003)
10-5G-4: PROHIBITED USES: The uses listed here are examples of prohibited

uses and not meant to be an all encompassing list:
Uses that involve the destruction of the land such as mining operations, plant harvesting, grading other than for roads.
Other uses not listed in sections 10-5G-2 and 10-5G-3 of this article are expressly prohibited. No land shall be used nor buildings and structures hereafter be erected, altered, enlarged, or otherwise modified in this zoning district unless said use or improvement is in compliance with the PD district provisions. (Ord. 03-06, 8-5-2003)
10-5G-5: DENSITY:
A. One unit per forty (40) acres. (Ord. 03-06, 8-5-2003)

10-5G-6: LOT DIMENSIONS:
A. All newly created lots shall meet the following minimum net dimensions:
1. Area: Forty (40) acre net lot area.
2. Depth: No minimum.
3. Width: No minimum. (Ord. 03-06, 8-5-2003)
10-5G-7: DEVELOPMENT STANDARDS: Areas within the preservation district are to be protected from extensive building encroachment. Necessary amenities or appurtenant structures, i.e., picnic shelters, or clubhouses, may be allowed in those areas where such facilities are warranted or necessary providing approval is granted under appropriate provisions of this code. (Ord. 03-06, 8-5-2003)

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CHAPTER 6
COMMERCIAL DISTRICTS
ARTICLE A. C-1 LIGHT COMMERCIAL DISTRICT
SECTION:

10-6A-1: Purpose
10-6A-2: Permissive Uses
10-6A-3: Conditional Uses
10-6A-4: Area Requirements
10-6A-5: Height Requirements
10-6A-6: Off-Street Parking
10-6A-7: Signs

10-6A-1: PURPOSE: The purpose of this Zone is to permit a limited mixture of residential and retail commercial activities. This Zone establishes and preserves areas for those commercial facilities which are essentially useful in close proximity to residential areas while minimizing the undesirable impact of such commercial uses on the neighborhoods which they service. (Ord. 1985-03, 4-16-1985)

10-6A-2: PERMISSIVE USES: Any use which is compatible with the general nature and patterns of permitted residential uses as outlined in Chapter 5, Articles A through F of this Title. (Ord. 1985-03, 4-16-1985)

10-6A-3: CONDITIONAL USES: A special use permit shall be required for the uses listed in this Section. The examples listed below are for explanatory purposes and may include other similar businesses of similar neighborhood convenience. Buffer strips, wall or fences shall be required in some instances. Specific conditions and provisions for each use may be referred to in Chapter 10 of this Title.
Adult amusement establishment.

Adult bookstore/video store.
a
Airport and heliport.
Ambulance service.
Auto washing establishment.
Bakery.
Banks and financial institutions.
Body shop. Bookstore. Bus garage. Car wash.
Gasoline service station.
Grocery store.
Heavy equipment repair and service.
Kennel (commercial).
Laundromat; dry cleaning; linen supply.
Mobile home park.
Paint shop (spraying, mixing).
Planned unit development.
Professional office.
Public utility installation, substation, and water well.
Racetrack. Recreation hall.
Recycling purchase center.

Stadium: baseball, football, soccer, or track. (Ord. 1998-02, 4-7-1998)

10-6A-4: AREA REQUIREMENTS:

A. Minimum Lot Area: Five thousand (5,000) square feet.

B. Minimum Yards Required: Where the site faces or abuts a residential zone, the setback requirements of the residential zone apply; otherwise the following shall apply:

1. Front: Fifteen feet (15').

2. Side: Five feet (5').

3. Rear: Fifteen feet (15'). (Ord. 1999-02, 3-2-1999)

10-6A-5: HEIGHT REQUIREMENTS: Same as the MF Zone. (Ord. 1999-02, 3-2-1999)

10-6A-6: OFF-STREET PARKING: Off-street parking requirements shall be as provided in Chapter 13 of this Title. No loading or unloading is to be conducted in a public street. (Ord. 1999-02, 3-2-1999)

10-6A-7: SIGNS: Signs shall be limited as provided in Chapter 14 of this Title. (Ord. 1999-02, 3-2-1999)

CHAPTER 6
COMMERCIAL DISTRICTS
ARTICLE B. C-2 GENERAL COMMERCIAL DISTRICT
SECTION:

1 0-6B-1 : Purpose
10-6B-2: Permissive Uses
10-6B-3: Conditional Uses
10-6B-4: Area Requirements
10-6B-5: Height Restrictions
10-6B-6: Off-Street Parking
10-6B-7: Signs

10-6B-1: PURPOSE: The purpose of this Zone is to allow those

commercial activities that serve the general community on a day-to-day basis. (Ord. 1985-03, 4-16-1985)

10-6B-2: PERMISSIVE USES: Any use which is compatible with the general nature and patterns of permitted residential uses as outlined in Chapter 5, Articles A through F of this Title. (Ord. 1985-03, 4-16-1985)

10-6B-3: CONDITIONAL USES: A use permit shall be required for the following uses:

Those conditional uses allowed in the C-1 Zone.

Garage for automotive repair and painting, provided it complies with the following:

A. All activities shall be conducted within a completely enclosed building.

B. Storage of not more than five (5) inoperable automobiles intended for repair, owned by customers only; provided, that the outdoor area in which such cars are stored shall be enclosed by a solid wall or fence at least six feet (6') high.

Lumber and building supply store. Motel and hotel.

Service stations primarily for automobiles and petroleum gas for consumption but not for resale and including lubricating, minor repairs and associated activities which are conducted within a completely enclosed building. A solid wall or fence at least six feet (6') high shall be erected between the activity and any abutting or contiguous residential zone, or other buffer as may be required by the Planning and Zoning Commission.

Shopping centers. Shopping center applications for conditional use shall be submitted according to the following requirements:

A. An applicant shall submit a general development plan for the shopping center, or shopping center site, including drawings showing the approximate location of proposed buildings; lighting control, protective screening; landscaping; the general design of pedestrian and vehicular entrance, and circulation; and the general design or parking, loading, and traffic handling facilities and methods.

B. The general development plan shall be accompanied by parking and traffic engineering plan designed to accepted traffic engineering practices and laid out so as to be an integral part of the center development. Pickup or unloading points must be designed so that vehicles stopped for this purpose do not create congestion on abutting public ways. No loading or unloading is to be conducted in a public street.

C. Upon approval, the applicant is responsible for payment of cost for the necessary channelization, shelter, and vehicular turning movements into the shopping center or shopping center site. These responsibilities shall be reduced to written enforceable agreement and agreed upon between the applicant and the City at the time of approval of the general development plan.

Any other use which is found compatible by the Board of Adjustment with the general nature and patterns of commercial activity. (Ord. 1985-03, 4-16-1985)

10-6B-4: AREA REQUIREMENTS:

A. Minimum Lot Area: Five thousand (5,000) square feet.

B. Minimum Yards Required: Where the site faces or abuts a residential zone the setback requirements of the residential zone apply; otherwise, the following shall apply:

1. Front: Fifteen feet (15').
2. Side: Five feet (5').
3. Rear: Fifteen feet (15'). (Ord. 1999-02, 3-2-1999; amd. 2000 Code)

10-6B-5: HEIGHT RESTRICTIONS: Height restrictions shall be the same as MF Zone. (Ord. 1985-03, 4-16-1985)

10-6B-6: OFF-STREET PARKING: Off-street parking requirements shall be as provided in Chapter 13 of this Title. (Ord. 1985-03, 4-16-1985)

10-6B-7: SIGNS: Sign limitations shall be as provided in Chapter 14 of this Title. (Ord. 1985-03, 4-16-1985)

CHAPTER 7
INDUSTRIAL DISTRICTS
ARTICLE A. M-1 LIGHT INDUSTRIAL DISTRICT
SECTION:
10-7A-1: Purpose
10-7A-2: Permissive Uses
10-7A-3: Area Requirements
10-7A-4: Height Requirements
10-7A-5: Off Street Parking
10-7A-6: Signs
10-7A-1: PURPOSE: The purpose of this zone is to allow for heavy commercial, warehousing, and light manufacturing operations. Residential uses are not allowed. (Ord. 03-05, 8-5-2003)
10-7A-2: PERMISSIVE USES:
A. Uses Conducted Within Building: The following uses must be conducted within a completely enclosed building:
Bottling plant.
Cold storage plant. Ice plant (wholesale).
Manufacturing, compounding, assembling, or treatment of articles from the following previously prepared materials:
Bone or shell. Cellophane.

Cork. Fiber. Fur.
Glass. Horn. Leather.
Metals.
B. Uses Conducted Within Building Or Fence: The following uses must be conducted in a completely enclosed building or within an area enclosed on all sides by a solid wall or fence at least six feet (6') high:
Building material storage or sales.
Concrete or cement products manufacturing, batching plant and processing of stone.
Dwelling unit, one, for a watchman or caretaker on the same lot or parcel of land with an industrial structure or use.
Gravel, sand, or dirt removal activity, stockpiling, processing or distribution and batching, plant; however, blasting or drilling is prohibited.
Rental, sales, display and repair of construction and heavy farm equipment.
Tire recapping or retreading. (Ord. 03-05, 8-5-2003)
10-7A-3: AREA REQUIREMENTS: For area requirements, refer to section 10-15-1 of this title. (Ord. 03-05, 8-5-2003)
10-7A-4: HEIGHT REQUIREMENTS: Maximum height of any building or structure shall be forty five feet (45'). (Ord. 03-05, 8-5-2003)

10-7A-5: OFF STREET PARKING: Off street parking requirements shall be as provided in chapter 13 of this title. No loading or unloading is to be conducted on a public way. (Ord. 03-05, 8-5-2003)
10-7A-6: SIGNS: Sign limitations shall be as provided in chapter 14 of this title. (Ord. 03-05, 8-5-2003)

CHAPTER 7
INDUSTRIAL DISTRICTS
ARTICLE B. M-2 HEAVY INDUSTRIAL DISTRICT
SECTION:

10-7B-1: Purpose
10-7B-2: Permissive Uses
10-7B-3: Conditional Uses
10-7B-4: Area Requirements
10-7B-5: Height Requirements
10-7B-6: Off Street Parking
10-7B-7: Signs

10-7B-1: PURPOSE: The purpose of this zone is to allow for heavy manufacturing uses. (Ord. 03-05, 8-5-2003)

10-7B-2: PERMISSIVE USES: The list below is for explanatory purposes and is not inclusive. Other similar manufacturing uses may be permitted upon request to the planning and zoning commission.

Manufacturing of the following:
Acetylene gas.
Alcohol.
Ammonia, bleaching powder, chlorine. Asphalt.
Brick, tile, terra cotta.
Chemicals.

Metal forge.
Oilcloth, linoleum.
Paint, oil (including linseed, shellac, turpentine, lacquer, varnish). Petroleum.
Plastics.
Soap.
Sodium compounds.
Stove or shoe polish.
Tar products.
Railroad repair shop.
Wrecking or junkyard. (Ord. 03-05, 8-5-2003)

10-7B-3: CONDITIONAL USES: A use permit shall be required for the following uses:

Manufacturing or use of the following:
Cannery, curing of raw hides.
Cement, lime gypsum, plaster of paris.
Explosives.
Fertilizer.
Glue.
Slaughter of animals.
Stock yard feeding pen.
Wool pulling or scouring. (Ord. 03-05, 8-5-2003)

10-7B-4: AREA REQUIREMENTS: Buffer zones may be required by the planning and zoning commission. (Ord. 03-05, 8-5-2003)

10-7B-5: HEIGHT REQUIREMENTS: Same as the M-R zone. (Ord. 03-05, 8-5-2003)

10-7B-6: OFF STREET PARKING: Off street parking requirements as provided in chapter 13 of this title. No loading or unloading is to be conducted in a public street. (Ord. 03-05, 8-5-2003)

10-7B-7: SIGNS: Sign limitations as provided in chapter 14 of this title. (Ord. 03-05, 8-5-2003)

CHAPTER 8
SU-1 SPECIAL USE ZONE

SECTION:
10-8-1: Purpose; Procedure
10-8-2: Supplementary Regulations And Special Conditions; Hearing

10-8-1: PURPOSE; PROCEDURE: The purpose of this Zone is to permit only those uses which require special consideration because of their unusual nature, dimensions, effect on surrounding property, or other similar reason. The boundaries of this Zone shall be determined only on a case-by-case basis following the procedures of an amendment as provided in this Title. (Ord. 1985-03, 4-16-1985)

10-8-2: SUPPLEMENTARY REGULATIONS AND SPECIAL CONDITIONS; HEARING: Supplementary regulations and special conditions may be imposed by the City Council upon recommendations by the Planning and Zoning Commission. The City Council may not grant a zone change for special use without a public hearing and unless adequate conditions and safeguards in the opinion of the City Council have been made:

A. To assure that the degree of compatibility of property uses shall be maintained with respect to the special use and the surrounding uses of property in the general area; and

B. To preserve the integrity and character of the zone in which the use will be located, and the utility and value of property in the Special Use Zone and in the adjacent zones. (Ord. 1985-03, 4-16-1985; amd. Ord. 1998-02, 4-7-1998)

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CHAPTER 9

MO-1 MOBILE OR MANUFACTURED HOME DISTRICT

SECTION:

10-9-1: District Established; Purpose
10-9-2: Definitions
10-9-3: Uses Permitted
10-9-4: Standards

10-9-1: DISTRICT ESTABLISHED; PURPOSE: The MO-1 Mobile or Manufactured Home Zoning District is hereby established. The purpose of this Zone is to provide for high density exclusively mobile or manufactured home single-family individually owned lots utilized as sites for placement of one single-family mobile or manufactured home per lot. (Ord. 1993-08, 7-6-1993)

10-9-2: DEFINITIONS:

MOBILE OR MANUFACTURED HOME STAND:

MOBILE OR MANUFACTURED HOME SUBDIVISION:

That portion of the lot intended for occupancy by the mobile or manufactured home proper, consisting of a rectangular plot of ground of dimensions to be determined by the size of the unit to be accommodated.

A parcel of land equal to at least twelve thousand (12,000) square feet of a regular or rectangular shape subdivided into lots individually owned and utilized as the site for placement of one single-family mobile or manufactured home per lot. (Ord. 1993-08, 7-6-1993)

10-9-3: USES PERMITTED: In this District land, buildings or structures shall be used only for mobile or manufactured single-family homes, and:

A. No more than one mobile or manufactured home shall be allowed on a lot.

B. On the lot, enclosed storage structures or garage facilities of sufficient size to serve the single-family dwelling, and for no other purpose, are allowed.

C. Accessory uses and structures which are clearly incidental and subordinate to permitted or permissible uses and structures are allowed.

D. Conduct of business on the premises is prohibited. (Ord. 1993-08, 7-6-1993)

10-9-4: STANDARDS:

A. Development Plan: Prior to granting MO-1 zoning approval, the owner shall submit to the City Building Inspector an overall development plan showing proposed land uses for the entire area to be zoned. The plan shall be in accordance with the provisions of this Chapter including a minimum site size of at least twelve thousand (12,000) square feet.

B. Compliance With Subdivision Ordinances: The plan shall meet or exceed all requirements of the City subdivision ordinances and regulations and no lots may be sold unless the owner complies with all subdivision ordinances and regulations.

C. Home Stand Location; Drainage: Each home stand shall be located on a well-drained lot and graded to ensure proper drainage of the lot and adequate storm drainage away from the home stand.

D. Lot Requirements:

1. Minimum Size: Minimum lot size per home unit shall be four thousand (4,000) square feet.

2. Configuration: Each lot shall be configured in such a manner as to allow a home stand of concrete footing adequate to support the home unit.

E. Number Of Homes Allowed: A maximum of eight (8) home lots per gross acre shall be allowed in any mobile home subdivision.

F. Location Of Homes: Homes shall be so located on each lot that there shall be at least a twenty foot (20') clearance between homes; provided, that with respect to homes parked end-to-end, the end-toend clearance may not be less than twenty feet (20'). No home shall be located closer than ten feet (10') to any property line.

G. Off-Street Parking:

1. Notwithstanding the minimum lot size of four thousand (4,000) square feet for each home lot, all lots shall be of sufficient size and configured in such a manner that in addition to the home stand, space shall be provided for two (2) off-street parking spaces, which shall be paved or covered with crushed stone or other suitable material.

2. No on-street parking shall be permitted.

3. Set-aside space for off-street parking shall not be encroached upon for any other uses. (Ord. 1993-08, 7-6-1993)

CHAPTER 10

SPECIAL USES

SECTION:

10-10-1: Definition
10-10-2: Approval Procedures
10-10-3: Special Uses Enumerated
10-10-4: (Reserved)
10-10-5: Mobile Home Parks (MHP)
10-10-6: Recreational Vehicle Parks (RVP)

10-10-1: **DEFINITION:** A "special use" is a use which is not permitted by right in a zoning district. A special use requires review and approval by the Planning and Zoning Commission and City Council to determine impacts on the surrounding area. (Ord. 1998-02, 4-7-1998)

10-10-2: **APPROVAL PROCEDURES:** The procedures for such approval are as follows:

A. Application For Special Use Permit:

1. Statement Of Reasons; Site Plan: Applications for a special use permit shall be obtained from the Community Development Department. There shall be a comprehensive statement included with each application indicating in detail the reason for the request, the purpose and use of the property, all improvements to be made, and a site plan including the following:

a. Location of existing and proposed structures including dimensions of setbacks;

b. 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;

c. Location and treatment of open spaces including landscaping plan and schedule;

d. Lighting; and

e. Signage.

2. Drainage Facilities Plan: A drainage facilities plan or environmental impact statement may be required by the Planning and Zoning Commission.

B. Public Hearing And Notice Procedure:

1. Notify Adjoining Property Owners: A public hearing shall be held by the Planning and Zoning Commission for all special use permits, and all property owners within two hundred feet (200') of the request shall be notified in accord with the provisions of subsection B2 of this Section.

2. Hearing And Notice Requirements: A public hearing is required for all requests for a zoning district change, zoning text amendment, future land use plan change, special use permit, planned unit development, annexation and initial zoning. Whenever such request is proposed, notice of the public hearing shall be sent by certified mail to all property owners, as shown on the records of the County Assessor, within the proposed area of the change and within at least two hundred feet (200') of the area of the proposed change or request, excluding streets, alleys, channels, canals, other public rights of way and railroad right of way; provided, that a minimum of fifteen (15) property owners will be notified, where less than that number are within the mandatory two hundred foot (200') radius. Notice to said property owners shall be mailed at least ten (10) days prior to the required public hearing. Notice of the time and place of the public hearing shall be published at least fifteen (15) days prior to the hearing in a newspaper of general circulation in the City.

C. Review And Approval Procedures: The Planning and Zoning Commission may deny such special use permits, or may grant final approval in accord with certain conditions, with right of appeal to the City Council. Approval may also be granted with additional conditions imposed, which are deemed necessary to ensure that the purpose and intent of this Title is met and to protect and provide safeguards for persons and property in the vicinity.

D. Time Limitations, Revocation And Development Standards;
1. Generally: In addition to the imposition of conditions, the Planning and Zoning Commission may impose a time limitation on the special use permit. If a special use is discontinued for a period of one year, said permit shall automatically be revoked. If a certificate of occupancy and/or a business registration is not issued for the property with the special use permit within two (2) years from the date of Planning and Zoning Commission approval, then the special use permit shall be automatically revoked. All improvements shall be in accord with the development standards within the district, except as otherwise authorized by the special use permit, and there shall be no major revisions in the site plan of the original approved special use, except as approved by the Planning and Zoning Commission. Minor revisions to a site plan, following final approval, may be subsequently approved by the planning staff without a public hearing. Major revisions to the plan are subject to a regular public hearing with the same requirements as an original application.
2. Major Revisions: Major revisions shall include, but are not limited to:
a. Any change in land use or intensity;
b. Modifications of vehicular traffic volumes or circulation; and
c. Increase in size of property or change in location or configuration of structures.
3. Minor Changes: Minor changes approvable by the planning staff are as follows:
a. Provision of additional parking or landscaping;
b. Minor adjustment to parking, landscaping, lighting, signage; and
c. Superficial changes to structures or slight variations in dimensions.
4. Permit Renewal: Special use permits shall be eligible for renewal when limitations expire.
E. Recording Of Special Use Permits: After approval, the special use permit shall be issued by the Community Development Director or

his/her designee and shall include all information, conditions, reference to site plans, and other provisions of the special use. The special uses as granted shall be shown on a Special Use Permit Map indicating its location with a designation of "SU" and the year of expiration. Special uses shall not be considered a zoning district change. (Ord. 1998-02, 4-7-1998)
10-10-3: SPECIAL USES ENUMERATED: The following are special uses which may be approved by the Planning and Zoning Commission in accord with the provisions and conditions of this Chapter. The Planning and Zoning Commission may, at its discretion, impose additional conditions when deemed necessary. Such uses shall be approved only within the districts stipulated.
ACCESSORY UNIT (R-1): This use is intended to allow flexibility in existing and proposed housing designs in order to better accommodate family living arrangements which often result due to growing economic and social demands and/or impacts. This use shall be permitted, provided:
A. Owner of record shall reside in either the main or accessory unit for a minimum of six (6) months of each calendar year during the special use permit approval period. Instances where nonresidency occurs in excess of six (6) months due to a legitimate illness or accident requiring hospitalization or special care shall be exempt from this provision; and
B. No more than one accessory unit shall exist per single-family dwelling/lot; and
C. Accessory units shall be created solely to accommodate those related to the family. Actual occupancy is subject to item A above; and
D. A maximum permitted increase to the size of an existing dwelling for purposes of an accessory unit shall be thirty percent (30%) of the floor area which existed three (3) years prior to application submittal. No more than thirty percent (30%) of the floor area for new construction may be allocated for the accessory unit in each instance, the permitted floor area for the accessory unit may not exceed five

hundred (500) square feet; and
E. Exclusive of the applicant's proposal, no more than ten percent (10%) of single-family dwellings (R-1 Zone) within a five hundred foot (500') radius of the applicant's property (measurement shall be from

property line to property line exclusive of rights of way) shall have accessory units. If there are no R-1 zoned properties within the radius measured, the proposal shall be considered as meeting the ten percent (10%) requirement; and
F. The lot/parcel proposed for such use shall meet the minimum area requirements of the R-1 Zone (most recent Sunland Park Zoning Code, as amended); and
G. Every effort shall be made to avoid additional entrances or other visible changes on the facade of the house facing the street. Modifications or initial designs shall, to the extent possible, conform to the overall design of the house. Exterior materials used for the accessory unit shall, to the extent possible, be of a compatible color, texture, and type; and
H. Accessory units shall retain direct internal access to the main dwelling in a manner which will allow easy reconversion back as part of the single-family unit (single kitchen) upon expiration or termination of the special use permit. Accessory units created through an addition or designated as such in new construction shall be connected to the main dwelling by a common wall(s). A minimum of seventy five percent (75%) of the accessory units common wall(s) length shall be used in the connection. Direct internal access to the accessory living areas shall exist through functional/integral living areas such as a living room, family room, main hallway, etc. Ancillary hallways, garages, laundry rooms, or similar areas shall not serve as the sole connecting facility; and
Landscaping shall be used to the extent possible, to minimize the impact to adjacent properties; and
J. Parking for the accessory unit shall conform to City standards; and
K. Approval for an accessory unit (special use permit) shall be based on the length of time the accessory unit/main dwelling is to be used by a specific family member as determined by the applicant. No more than one accessory unit special use permit shall be granted, per lot, to the same property owner. The special use permit may be revoked on the grounds of noncompliance with all applicable conditions, codes, or ordinances and thereby, require reconversion back as a single-family dwelling. Special use permits for purposes herein defined shall run with the specific family member(s) (not the land) for which the accessory unit was created. A change in ownership of a property where a special use permit exists for a

person(s) who is/are no longer a family member of the accessory unit occupant or a change in the intended accessory unit occupancy status shall cause said permit to immediately become void. In such instances, it shall be the responsibility of the new/present owner to either apply for a new accessory unit special use permit or reconvert the structure back to a single-family unit as required pursuant to all applicable regulations; and
L. Upon approval of an accessory unit special use permit, the applicant and/or property owner shall be required to file the special use permit, as issued by the Planning Department, with the County Clerk's office; and
M. All applicable special use permit requirements shall apply pursuant to Chapter 8 of this Title unless exempted or otherwise stated under these provisions.
ADULT AMUSEMENT ESTABLISHMENT: This use shall be permitted, provided:
A. Such use is located at a minimum of one thousand feet (1,000') from a property line of a:

Church;
Nursery/daycare;
Public park or recreational facility;
Residential zoning district;
School; and
Other adult bookstore/video store or adult amusement establishment.
B. This use shall be permitted, provided such use is located at a minimum of five hundred feet (500') from the property line of a liquor establishment. Measurement shall be measured from the adult amusement establishment to the property line of the liquor establishment.
C. The operator of an adult entertainment establishment shall affix a sign to the exterior wall nearest the primary entrance to the structure in which such enterprise is located. Such sign shall be thirty six inches by eighteen inches (36" x 18"), shall have red lettering (letters

shall be 2 inches in width and 3 inches in height) on a white background and it shall state as follows:
WARNING:
ADULT AMUSEMENT ESTABLISHMENT
THE BUSINESS WITHIN IS SEXUALLY ORIENTED
ADULT BOOKSTORE/VIDEO STORE: This use shall be permitted, provided:
A. Such use is located at a minimum of one thousand feet (1,000') from a property line of a:
Church;
Nursery/daycare;
Public park or recreational facility;
Residential zoning district;
School; and
Other adult bookstore/video store or adult amusement establishment.
B. This use shall be permitted, provided such use is located at a minimum of five hundred feet (500') from the property line of a liquor establishment. Measurement shall be measured from the adult bookstore/video store to the property line of the liquor establishment.
C. The operator of an adult bookstore/video store shall affix a sign to the exterior wall nearest the primary entrance to the structure in which such enterprise is located. Such signs shall be thirty six inches by eighteen inches (36" x 18"), shall have red lettering (letters shall be 2 inches in width and 3 inches in height) on a white background and it shall state as follows:
WARNING:
ADULT BOOKSTORE/VIDEO STORE
THE BUSINESS WITHIN IS SEXUALLY ORIENTED
AIRPORT LANDING FIELD, STRIP OR HELIPORT: Uses shall be in accord with all Federal Aviation Administration Regulations.

AMUSEMENT PARK.
AUTOMOBILE PARKING LOT: Parking lots must be within three hundred feet (300') of any office, commercial, business, or industrial district. The parking area shall be suitably landscaped, paved and drained, lighted, and maintained free of debris.
BODY SHOP.
BUS GARAGE: A traffic plan shall be approved by the City Engineer showing the location, size, and width of streets giving access to the garage. Such use shall be located on an arterial or collector street as shown on the Future Land Use Plan.
CEMETERY OR SIMILAR USES: Any cemetery site shall contain at least ten (10) acres and shall provide adequate landscaping, screening, and buffering.

CHILDCARE CENTER OR SIMILAR USES; SIX OR MORE CHILDREN: Childcare center, nursery school, day nursery, kindergarten and similar uses shall be in accord with State licensing requirements and enclosed with a solid wall or fence five feet (5') in height. A stacking lane shall be provided which is at least fifteen feet (15') in width and a minimum total length of twenty seven feet (27') for each ten (10) children of maximum designed enrollment.
CHURCH AND SIMILAR USE; OVER TEN PERSONS: Adequate off-street parking shall be provided as required by this Title, and such use shall be located on an arterial or collector street, as shown on the Future Land Use Plan. In addition, there shall be adequate screening and buffering along residential property lines. All church sites shall have a minimum of two (2) acres.
COMMUNITY BUILDING, PUBLIC OR PRIVATE.
DRIVE-IN BANK: Stacking lanes shall be provided and designed to ensure that no bank traffic backs into the street giving access to the bank. Banks must be located on a collector or arterial street as shown on the Future Land Use Plan. Waiting lanes shall be a minimum of one hundred eighty feet (180') in length for each drive-in window, with a minimum width of ten feet (10') for each lane.
FLEA MARKET: Flea markets shall not be approved if there is a protest of fifty one percent (51%) within the area of property ownership one hundred feet (100') from the proposed use.

FRATERNITY.
GAS PUMPS: Gas pumps may be permitted in the C-1 Zone, provided they are used in conjunction with a convenience grocery store. There shall be no servicing of vehicles allowed. A sign may be used for such use, provided it shall not exceed ten feet (10') in total height, and the total sign area shall not exceed twenty (20) square feet. Said allowances for a sign are in addition to normal requirements listed in the Sign Code, Chapter 14 of this Title.
GOLF COURSE OR COUNTRY CLUB: There shall be screening and buffering on property lines abutting residential areas and no structures shall be within fifty feet (50') of a residential property line.
GROSS FLOOR AREA, EXCEEDING THREE THOUSAND SQUARE FEET: The maximum gross area per business may exceed three thousand (3,000) square feet in a C-1 District, provided it can be shown that the increase in size will not be inconsistent with the purpose of the C-1 District and will not create traffic congestion. Businesses shall not exceed six thousand (6,000) square feet of gross floor area.
HALFWAY HOUSES AND QUASI-INSTITUTIONAL HOUSES. HEAVY EQUIPMENT REPAIR AND SERVICE.
HOME FOR HANDICAPPED, DISABLED, RETARDED, OR RETIRED. HOSPITAL OR OVERNIGHT CLINIC.
INSTITUTIONS; PUBLIC, EDUCATIONAL, RELIGIOUS, AND PHILANTHROPIC.
KENNEL, COMMERCIAL: Such uses shall be a minimum of four hundred feet (400') from any residential zoning district boundary.
M-2 SPECIAL USES: The following uses are permitted in the M-2 District, provided such use is a minimum of one thousand feet (1,000') from a residential zoning district boundary and does not create a nuisance due to noise, odor, pollution, traffic or other similar problems:
Acid manufacture. Airport or heliport.
Cement, lime, gypsum or plaster manufacture.
Explosives manufacture or storage.
Fat rendering.

Fertilizer manufacture.
Glue manufacture.

Junkyards, salvage, or wrecking yards.
Petroleum refining.
Raw materials manufacturing, processing, and extracting. Smelting of ores.
Stockyards or slaughter of animals.
MANUFACTURE, PROCESSING, TREATMENT, AND EXTRACTION OF RAW MATERIALS: Such uses shall be a minimum of four hundred feet (400') from a residential district boundary or residential dwelling property line. Uses shall not create a nuisance due to noise, odor, pollution, traffic or other similar problems.
MOBILE HOME PARKS: See Section 10-10-5 of this Chapter. MOBILE HOME SUBDIVISIONS.
NURSING HOMES: There shall be no more than ten (10) persons in one home, and a minimum of two (2) parking spaces must be provided in addition to one space for each five (5) persons.
OFFICES IN HISTORIC DISTRICTS AND STRUCTURES: Offices of professional, commercial, industrial, religious, institutional, public or semipublic persons or organizations; provided, that no goods, wares, or merchandise shall be prepared or sold as the primary business of the facility. Such special use shall be permitted within any zoning district, but only within:
A. An existing structure identified as "significant" or "contributing" in a recognized historical district on the State Register of Historic Places; or
B. An existing individual structure, landmark, site or building listed on the State Register of Historic Places.
Such special use permits shall be permitted only for a time specified by the Planning and Zoning Commission, and only as long as the property retains its designation on the State Register of Historic Places. Otherwise, the property shall revert to and retain its normal zoning district classification and the rights associated therewith.
PAINT SHOP; SPRAYING OR MIXING: Provided such use shall be located at least one hundred feet (100') from any residential zoning district and provided there shall be Fire Department approval.

PLANNED UNIT DEVELOPMENTS.

PUBLIC BUILDINGS.

PUBLIC UTILITY INSTALLATIONS, SUBSTATIONS, WATERWELLS: 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 screening in the form of a solid wall, fence or compact shrubbery around the entire perimeter of the lot or tract, or arc, and the installation itself in cases such as transformers.

RACETRACK: Provisions are the same as for stadium special uses.

RECREATIONAL VEHICLE PARKS: See Section 10-10-6 of this Chapter.

RECYCLING PURCHASE CENTERS: This business is limited to the inspection, weighing, purchasing and temporary storage of aluminum and scrap metal, cloth, glass and paper products. Said materials are to be purchased for the purpose of transporting to local and area processing centers.

A. Storage shall be within an enclosed building; or

B. Storage may be located within mobile trailer units within a sight obscuring fence at least six feet (6') in height, and not to be a contamination, rodent, insect, or health hazard;

C. Materials to be recycled shall not remain on the premises for a period exceeding four (4) weeks; and

D. Recycling purchase centers shall be located a minimum of three hundred feet (300') from any residential zoning district.

SCHOOLS; PUBLIC, PRIVATE, PAROCHIAL: Such use shall be reviewed to ensure proper location within the City and shall be located on an arterial or collector street as shown on the Future Land Use Plan.

SHOPPING CENTER, FIVE ACRES MAXIMUM: There shall be a development plan submitted. In addition, there shall be a solid wall of at least six feet (6') in height provided on all residential property lines abutting such center.

SORORITY.

STABLES, COMMERCIAL: Provisions are the same as for a "kennel, commercial" special use.

STADIUM; BASEBALL, FOOTBALL, SOCCER, OR TRACK: All parking areas and interior streets shall be surfaced, and the building complex shall be located a minimum of three hundred feet (300') from any residential zoning district boundary.

SWIMMING POOL, COMMERCIAL OR PUBLIC (All Residential R Districts): A protective fence or wall no less than six feet (6') in height shall be provided which completely encloses the pool area, and the pool shall be no closer than fifteen feet (15') from any property line. Approval from the electric utility is required to ensure safety. (Ord. 1998-02, 4-7-1998; amd. 1998-07, 10-16-1998; 2000 Code)

10-10-4: **(RESERVED)**

10-10-5: **MOBILE HOME PARKS (MHP):** A special use permit is required for all MHP developments and is intended to provide for the development of mobile home parks at standards consistent with the health, safety, and welfare of the community. MHPs are permitted by special use permit in the following districts: R-2 and C-2. "Mobile homes" as defined in Section 10-1-1 of this Title, when used for living purposes (either temporary or permanent), shall be located solely within MHPs or MR zoned areas.

A. Application And Action: Application for a special use permit to build or enlarge an MHP shall be made to the Community Development Department.

B. Permitted Uses In Mobile Home Park:

1. Stationing of residential mobile homes with complete hookup to utilities.

2. Accessory buildings, swimming pools, home occupations, and recreation areas and buildings.

3. Home for handicapped, disabled, retarded, or retired.
C. Mobile Home Park Standards:

Spacing (Minimum Of MHs)	Spaces (Minimum)
Side to side 20 feet	Area 3,500 square feet
Back to back 20 feet	Width 35 feet
Boundary to MH 10 feet	Depth 100 feet
Mobile home to any building 20 feet	Height (maximum)
Mobile home to accessory building 10 feet	Stories 2
MPH minimum size 5 acres	Height 35 feet
Site Coverage	Density
Open space (minimum) 40 percent	Per space 1
Impervious material (maximum) 40 percent	Per acre 10 MH units

D. Design Standards:
1. Swimming Pools:
a. Swimming pools are permitted only when a protective fence four feet (4') in height is provided around the yard, lot or pool area.
b. The pool shall be no closer than five feet (5') from any property line or mobile home space boundary, and approval from all utilities is required to ensure overhead safety.
c. All gates in fences shall be self-closing and equipped with self-latching devices.
2. Perimeter Walls: All mobile home parks shall have perimeter walls at least five feet (5') in height as approved by the Community Development Department.
3. Landscape Concept: All mobile home parks shall have a landscape concept, as approved by the Community Development Department, for all areas not devoted to structures, streets, alleys, drives, walks and paths.

4. Walls, Fences, And Hedges: Walls, fences, and hedges shall conform to this Title, with the following exception: a clear-sight t triangle of twenty feet (20') in both directions on the mobile home space from the corner of the internal streets is required. A clear-sight triangle of at least thirty feet (30') is required at all MHP entrances and exits.
5. Utility Placement: Utility placement shall be approved by the Community Development Department.
E. Streets And Access Standards:
1. All MHPs shall have vehicular access from an arterial or collector street.
2. Each mobile home when occupied shall have direct access to an internal street. Direct access to exterior public streets shall be prohibited.
3. Street layout shall be designed for prevention of natural features and to follow topography to the greatest extent possible and to encourage the orientation of mobile homes in such a manner as to permit the use of solar energy systems.
4. All streets within a mobile home park shall be surfaced with asphalt or concrete to a minimum width of thirty seven feet (37').
5. No street within a mobile home park shall dead end, except for cul-de-sac streets, which shall have a minimum turning radius of fifty feet (50') at the termination point.
6. There shall be a network of pedestrian walks connecting mobile home spaces with each other and with MHP facilities.
7. Private driveways shall be designed to increase ease of access, increase privacy, and provide safety.
8. All spaces and streets shall be designed to ensure proper drainage. A complete drainage plan shall be approved by the City Engineer.
9. Street lighting shall be provided to illuminate all private and public access ways and walkways for the safe movement of vehicles and pedestrians at night.

F. Signs: Signs shall conform to Sign Code in Chapter 14 of this Title.
G. Refuse: The management of a mobile home park shall provide adequate refuse collection facilities. These collection facilities shall be constructed and maintained in accordance with all City 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. Storage:
1. MHPs shall have a storage yard for recreational vehicles. Such storage yards shall have a minimum of sixty (60) square feet of storage area per mobile home space in the development and shall be located so as not to detract from surrounding properties. All recreational vehicles shall be parked in the storage yard. (Ord. 1998-07, 10-6-1998)
2. Each mobile home space shall have a personal storage unit. Such storage unit shall be at least six feet (6') high with a storage capacity of at least three hundred (300) cubic feet. Each storage unit shall be anchored permanently to the ground. (Ord. 1998-07, 10-6-1998; amd. 2000 Code)
I. Nonexposure Of Undercarriage: Mobile home undercarriages shall be concealed by either:
1. An appropriate, nonflammable skirting developed for the particular mobile home by the manufacturer, or its equal, and meeting the requirements of the State Mobile Housing Division Rules and Regulations on the installation of skirting.
2. Entrenching the mobile home to a depth equal to the height of the undercarriage. Any such entrenching shall have provisions for drainage approved by the City Engineer and shall be constructed in conformance with the State Mobile Housing Division Rules and Regulations.
J. Expansion Or Alteration: Any existing MHP desiring to expand its area shall do so in accordance with the provisions of this Title. (Ord. 1998-07, 10-6-1998)
City of Sunland Park

10-10-6: RECREATIONAL VEHICLE PARKS (RVP): A special use permit is required for all RVP developments and is intended to provide for the development of recreational vehicle parks at standards consistent with the health, safety, and welfare of the community. RVPs are permitted by special use permit in the following districts: C-2 and M-1. "Recreational vehicles", as defined in Section 10-1-1 of this Title, when used for temporary or permanent living purposes, shall be located solely in RVPs.
A. General Requirements:
1. Access: Recreational vehicle parks shall abut and access from one of the following:
Freeway
Major arterial street Minor arterial street
2. Utilities: Water, sewer, electricity, telephone, and other necessary utilities shall be available at the RVP and placement shall be approved by the Community Development Department.
3. Driveways: Driveways shall be designed to increase ease of access, increase privacy, and provide safety, and placement shall be approved by the Community Development Department. The density of spaces in any recreational vehicle park shall not exceed twenty (20) spaces per acre.
B. Development Standards:
1. There shall be fourteen feet (14') between the sides of all recreational vehicles and eight feet (8') between the backs of all recreational vehicles.
2. No recreational vehicles shall be closer than eight feet (8') to any private access way.
3. Spaces for recreational vehicles shall be a minimum of one thousand two hundred (1,200) square feet.

4. No recreational vehicles shall be closer than twenty feet (20') to any building.
5. No structure shall exceed thirty five feet (35') in height.
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6. A landscaping concept shall be approved by the Community Development Department for all areas not covered by structures or paved.
7. Screening the perimeter of a recreational vehicle park by a wall and/or other approved landscaping material shall be required.
8. Private access ways and individual space arrangements shall be designed to accommodate the frequent movement of recreational vehicles.
9. Interior streets shall be a minimum of twenty seven feet (27') in width and paved with asphalt, concrete, or crushed rock.
10. Street layout shall be designed for preservation of natural features and to follow topography to the greatest extent possible.
11. There shall be an active, usable recreational area for tenants, comprising five percent (5%) of the gross site area, which shall not include required setback areas or similar areas not usable for recreational activities.
12. There shall be a community building or buildings that shall provide for the recreational and service needs of occupants of the recreational vehicle park. It shall include restrooms, showers, and a laundry. No dry cleaning shall be permitted in the RV park. The community building or buildings may not be included as part of the required recreational area.
13. Adequate refuse collection facilities shall be provided, constructed, and maintained in accordance with all City health regulations, and shall be screened and designed to bar animals from access to refuse. Refuse shall be removed from collection sites at least once a week.
14. Lighting shall be provided to illuminate access ways and walkways for the safe movement of vehicles and pedestrians at night. (Ord. 1998-07, 10-6-1998)
15. A means of emptying sewage holding tanks shall be provided and approved by the State Health Department. (Ord. 1998-07, 10-6-1998; amd. 2000 Code)
16. Expansion of existing recreational vehicle parks shall be in accordance with provisions of this Section.
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17. One mobile home may be placed in the RVP for use by a caretaker. (Ord. 1998-07, 10-6-1998)
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10-11-1 10-11-2
CHAPTER 11
SUPPLEMENTARY DISTRICT REGULATIONS
SECTION:
10-11- 1: Scope
10-11- 2: Visibility At Intersections
10-11- 3: Fences, Walls And Hedges
10-11- 4: Accessory Buildings
10-11- 5: Principal Structures On A Lot
10-11- 6: Exceptions To Height Regulations
10-11- 7: Access To And From Structures
10-11- 8: Major Recreational Equipment, Parking Or Storage
10-11- 9: Parking And Storage Of Certain Vehicles
10-11-10: Preexisting Uses Or Structures
10-11-11: Exteriors And Roofs
10-11-12: Prohibited Materials Or Structures
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10-11-16: Encroachments
10-11-17: Disclosure Requirements
10-11-18: Uses Not Permitted
10-11-19: Compliance With Building Codes And Permits

10-11-1: SCOPE: The following restrictions set forth in this chapter shall apply in all zoning districts provided for in this title. (Ord. 1985-03, 4-16-1985)

10-11-2: VISIBILITY AT INTERSECTIONS: On a corner lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (21/2) and ten feet (10') above the center line grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines fifty feet (50') from the point of the intersection. (Ord. 1985-03, 4-16-1985)

10-11-3: FENCES, WALLS AND HEDGES:

A. In General: Notwithstanding any other provisions of this title, fences, walls, and hedges are permitted around any RE rural estate, R-1 single-family residential, TC single-family townhouse and condominium, MR mixed residential, or MF multi-family residential required yard, or along the edge of any yard; provided, that no fence, wall or hedge along the sides or front edge of any front yard shall be over two and one-half feet (21/2') in height; and provided, that such fences, walls and hedges shall not be constructed of chainlink, wire or other metal materials or plastic and shall not be penetrable by light. Notwithstanding any other provisions of this title, fences, walls and hedges are permitted around any C-1 light commercial, C-2 general commercial, M-1 light industrial, and M-2 heavy industrial zones required storage or parking areas; provided, that no fence, wall or hedge along the sides or front or back edge of any storage or parking areas shall be over six feet (6') in height; and provided, that such fences, walls and hedges shall not be constructed of chainlink, wire or other metal materials or plastic and shall not be penetrable by light. (Ord. 1987-03, 1-6-1987; amd. Ord. 1998-06, 10-6-1998)

B. Retaining Walls For Residential Zoned Property: 1. Construction Requirements And Material:

a. Permittee shall be responsible for location of property lines and shall be responsible for placement of footings and walls within the property boundaries. The permittee shall also be responsible for location of any underground lines within his property.

b. Subgrade for retaining walls shall be compacted to ninety five percent (95%) of modified proctor as determined by ASTM standard D1557.

c. Concrete for footings shall attain a strength of two thousand five hundred (2,500) psi in twenty eight (28) days. The bottom of the footings shall be located a minimum of twelve inches (12") below surrounding grade of soil.

d. Reinforcing steel for concrete footings shall be deformed bars conforming to ASTM standard A617 and shall be grade forty (40).

e. Mortar for rock placement shall be type S conforming to ASTM standard C161 and C270 and shall be mixed in the ratio of one part portland cement by volume with over one-fourth (1/4) to one-

half (1/2) parts of hydrated lime or lime putty by volume, and the aggregate shall be not less than two and one-fourth (21/4) and not more than three (3) times the sum of the volumes of the cement and lime used or one-half (1/2) by volume of cement, one part by volume of type II masonry cement, and the aggregate shall not be less than two and one-fourth (21/4) and not more than three (3) times the sum of the volume of the cement used.

Quicklime shall conform to ASTM standard C-5.
Hydrated lime shall conform to ASTM standard C207 and shall be type S or M.
f. The rock to be used in construction of the retaining wall shall have an abrasion wear of not more than fifty five percent (55%) as determined by ASTM standard C535 and a soundness loss of not more than twenty one percent (21%) as determined by ASTM standard C88 (magnesium sulfate solution) and the specific gravity shall be not less than 2.50.
g. Permittee shall be responsible for calling for inspections of the retaining wall during construction and the inspections shall be as follows:
(1) Inspection Schedule:
(A) Prior to placement of the concrete footing, the permittee shall call for an inspection of the footing excavation and reinforcing steel placement.
(B) At approximately fifty percent (50%) completion of the rock retaining wall, the permittee shall call for an inspection of the rock placement. Rock retaining walls twenty four inches (24") or less in thickness shall have bond stoned with a maximum spacing of three feet (3') vertically and three feet (3') horizontally and if the retaining wall is of greater thickness than twenty four inches (24"), it shall have one bond stone for each six (6) square feet of wall surface on both sides.
h. Backfill material to be placed adjacent to the retaining walls shall be a granular soil. Expansive type soils are prohibited as backfill materials.

i. Any rock retaining wall required to retain more than six feet (6') of fill or required to support a sloping fill or surcharge shall be designed by a structural engineer licensed to support a sloping fill or surcharge shall be designed by a structural engineer licensed to practice as such in the state of New Mexico.
(1) In lieu of the design contained in this subsection B for rock retaining walls, permittee may submit a separate design.
(2) Any design submitted by permittee shall be designed by a structural engineer, licensed to practice as such in the state of New Mexico. The design shall be submitted with the design calculation and the drawings prepared for construction of the rock retaining wall shall be sealed with the engineer's seal.
(3) The inspection schedule shown herein shall be followed and the construction material shall conform to the specifications contained herein when a separate design is submitted.
(see following page)

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2 0" 2' - 6" 2 10" i o
4 -0" - 9" 3'. I" 3 - co. -6"
6' -0" 4.- 6" 410" 5 - Ea. 4"
0' - 0" 2.-6" 2' -id' 3- Eu.
2'- 0" 3.-0" 4 -Ea. 0"
- 0" 3'- 6" 3' - 10" 4 -En
6' -0" 5'- 0" 5' - 4" 6- Ea - 6"
0' - 0" 3' -0" 4" 4 - Ea. 2'- 0"
2' - 0" 3- 6" 3'- 10" 4 _Ea.
- 0" 4'-0" 5 - Ea
6' 0" 5'-o" 6 -Ea.
0" 4.- 0" 5-Ea. 2.- 6"
2' - 0" 4'- 6" 4-10" 5 -Ea.
5.-0" 6-Ea
6' 0" 5,-6" 5' '10' 6-Ea.

4 121 L BARS
40T BARS012"0.0
I.- 4"
100-^^•^••••^
C
NATURAL GROUND
GRAVEL DRAIN
EMBED ROCK 6" INTO CONCRETE FOOTING.
CITY OF LAS LOOMS DESIGN STANDANOS
APPROVED ITT 1"--•••••147401-, •NNING. ENGINEERING 0 PRO SSSSS DI ECTOR LE
CA 'DATE, iDNAWII 05'
NM/000M Inv A.• 0-11 Iowa. NO. S
IN rAiNING WALL SECTION
NONE
NOTE:
I. GRAVEL DRAIN SHALL BE CONTINUOUS AND SNAIL BE ONE SQUARE FOOT IN CROSS SECTION. 2. SEE PAGE 0-14 FOR GENERAL NOTES
10-11-3 10-11-6
2. Enforcement Provisions:
a. Offenses:
(1) Every violation of this subsection B constitutes an offense.
(2) Each day a violation of this subsection B exists constitutes a separate offense.
3. Enforcement Authority:
a. The code enforcement division is authorized to issue citations for violations of this subsection B and file criminal complaints in municipal court alleging violations of this subsection B.
b. The municipal court may impose a fine for each offense, not to exceed five hundred dollars ($500.00) for each day the violation is found to have occurred. In addition to any fines thus imposed, the municipal court is authorized to issue orders for removal or other judgments of the municipal court (including failure to pay fines previously imposed) shall constitute contempt of court and may be separately punished at the discretion of the municipal court. (Ord. 00-01, 1-18-2000)

10-11-4: ACCESSORY BUILDINGS: No accessory building shall be erected in any required front yard, and no separate accessory building shall be erected within five feet (5') of any property line or required easement, and in no case shall be within ten feet (10') of any other building or structure. (Ord. 1989-04, 6-7-1989)

10-11-5: PRINCIPAL STRUCTURES ON A LOT: More than one structure housing a permitted or permissible principal use may be erected on a single lot if yard and other requirements of this title are met for each structure as though it were on an individual lot. (Ord. 1985-03, 4-16-1985)

10-11-6: EXCEPTIONS TO HEIGHT REGULATIONS: The height restrictions contained in chapters 5 through 8 of this title do not apply to ordinary and necessary spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy. (Ord. 1985-03, 4-16-1985)

10-11-7 10-11-11

10-11-7: ACCESS TO AND FROM STRUCTURES: Every building hereafter erected or moved shall be on a lot adjacent to and with vehicular access to a public street, or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient vehicular access for servicing, fire protection, and required off-street parking. (Ord. 1985-03, 4-16-1985)

10-11-8: MAJOR RECREATIONAL EQUIPMENT, PARKING OR STORAGE: No major recreational equipment shall be parked or stored on any lot in a residentially zoned district except in a carport, enclosed building, or in a required rear yard; provided, however, that such equipment may be parked anywhere on a residential premises for a period not to exceed twenty four (24) hours during loading and unloading operations. No major recreational equipment shall be attached to public utilities, parked for living, sleeping or housekeeping purposes when parked or stored on a residentially zoned lot or any location not designated for that purpose. (Ord. 1989-04, 6-7-1989)

10-11-9: PARKING AND STORAGE OF CERTAIN VEHICLES: Automotive vehicles or trailers of any kind or type without current license plates or in inoperable condition shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings. (Ord. 1985-03, 4-16-1985)

10-11-10: PREEXISTING USES OR STRUCTURES:

A. Wrecking Or Junkyards; Enclosure: Any wrecking or junkyard including those existing prior to adoption of this Title shall have constructed a complete surrounding solid wall or fence at least ten feet (10') high which shall hide from public view the wrecking or junkyard premises. Wire or chain link fences are prohibited.

B. Mobile Homes; Skirting: Any mobile home permanently placed and no matter what size shall be skirted, be it a mobile home placed prior to or after the adoption of this Title. (Ord. 1985-03, 4-16-1985)

10-11-11: EXTERIORS AND ROOFS: Exterior walls of all buildings and improvements on residentially zoned lots or locations shall be constructed of masonry, adobe, frame stucco, shingles, or wood siding. The roof of all buildings and improvements shall be surfaced with tile, gravel,

shingles or other permanent type construction material. (Ord. 1989-04, 6-7-1989)

10-11-12: PROHIBITED MATERIALS OR STRUCTURES:

A. Materials: No residence or other building or improvements on any residentially zoned lot or location shall be constructed of "boxed" or "sheet metal" construction except for modern "mobile homes" as defined in Section 10-1-1 of this Title and all other restrictions of this Title.

B. Structures: No tent, shack, or barn shall be erected, placed or permitted to remain on any lot in any residentially zoned lot or location except as allowed in the RE Rural Estate Zone restrictions. (Ord. 1989-04, 6-7-1989)

10-11-13: WATER AND SEWER: All water and sewer improvements, systems, and fixtures shall be connected to the public utilities and all lavatories, toilets, bath facilities, and kitchen facilities shall be built indoors and constructed to comply with the State and local health authority regulations and all applicable codes. Under no circumstances shall the erection or use of outside toilet facilities be allowed. (Ord. 1989-04, 6-7-1989)

10-11-14: ANIMAL RESTRICTIONS:

A. Animals And Fowl: No residentially zoned lot or location shall be used for the purpose of raising hogs, goats, sheep, rabbits, horses, cattle, fowl, mules of other animals except as allowed by RE Rural Estate Zone District regulations. The occupant of each residential lot may, however, keep domestic animals.

B. Commercial Dog Kennel: No commercial dog kennel shall be erected or maintained on any residentially zoned lot or location except as allowed by zone district regulations of this Title. (Ord. 1989-04, 6-7-1989)

10-11-15: NUISANCE CONDITIONS: No public nuisance or offensive, noisy, or illegal trade, calling or act shall be enacted, suffered, or permitted in any portion of the City. (Ord. 1989-04, 6-7-1989)

10-11-16: ENCROACHMENTS: No building, structure, improvement, or

any part thereof shall be constructed or permitted to extend over or encroach upon any street, easement, public right of way, property line or required building setback. (Ord. 1989-04, 6-7-1989)

10-11-17: DISCLOSURE REQUIREMENTS:

A. Easements; Ordinance Restrictions: All grants, sales, leases, and conveyances of lots and locations shall be subject to the street and utility easements of record at the time of the sale, grant, lease or conveyance and shall be further subject the allowances and restrictions of this Title. Any individual, corporation, or agent of any individual or corporation proceeding as grantor, seller, lessor, or conveyor of any lots, locations, or real property shall disclose to the grantee, buyer, lessee, or receiver, prior to the execution of the grant, sale, lease, or conveyance the following information:

1. A legal description of the property.
2. The zone district classification of the property.
3. All pertinent zone district regulations of the actual property noting all allowances and restrictions on the property as mandated by this Title, as amended, and by Title 5, Chapter 1, Article F of this Code.

B. Oral Presentation; Accompanying Documents: Such disclosure shall be orally presented to the grantee, buyer, lessee, or receiver in the first language of the grantee, buyer, lessee, or receiver and shall be accompanied by direct copies of the referenced ordinances. (Ord. 1989-04, 6-7-1989)

10-11-18: USES NOT PERMITTED: No oil drilling, oil development operations, quarrying or mining shall be permitted or allowed on any lot or location not specifically established as permissible by this Title. (Ord. 1989-04, 6-7-1989)

10-11-19: COMPLIANCE WITH BUILDING CODES AND PERMITS:

All structures, buildings, and improvements shall be in compliance with applicable code requirements of Sunland Park and the State of New Mexico. A building permit shall be acquired from the building

inspection office prior to commencing construction on any structure, building, or improvement. (Ord. 1989-04, 6-7-1989)

CHAPTER 12

NONCONFORMING USES, STRUCTURES AND LAND

SECTION:

10-12-1:
10-12-2: 10-12-3: 10-12-4: 10-12-5:
10-12-6: 10-12-7:
Nonconforming Lots, Structures, Uses And Characteristics Of Uses
Nonconforming Lots Of Record
Nonconforming Uses Of Land With Minor Structures Nonconforming Structures
Nonconforming Uses Of Structures Or Of Structures And
Premises In Combination Repairs And Maintenance
Uses Under Special Exception Or Variance

10-12-1: NONCONFORMING LOTS, STRUCTURES, USES AND CHARACTERISTICS OF USES:

A. Preexisting Conditions: Within the districts established by this Title, or amendments that may later be adopted, there exist:

1. Lots;
2. Structures;
3. Uses of land and structures; and
4. Characteristics of use

which were lawful before this Title was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Title or future amendment.

It is the intent of this Title to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Title that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district. It is not the intent of this

Title to authorize, and this Title shall not be construed to authorize, uses which constitute public or private nuisances or are otherwise prohibited by law or regulations.

B. Limitations: Nonconforming uses are declared by this Title to be incompatible with, or not within the meaning of, permitted uses in the district in which located. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of structure and land in combination shall not be extended or enlarged after passage of this Title by attachment or additions on a building or premises or by placement of additional signs intended to be seen from off the premises or by the addition of other uses, of a nature which would not be permitted generally in the district involved.

C. Avoid Undue Hardship: To avoid undue hardship, nothing in this Title shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Title and upon which actual building construction has been carried on diligently. "Actual construction" is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation, demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation, demolition or removal shall be deemed to be actual construction; provided, that work shall be carried on diligently. (Ord. 1985-03, 4-16-1985)

10-12-2: NONCONFORMING LOTS OF RECORD:

A. Dwellings And Accessory Buildings: In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption of this Title, notwithstanding limitations imposed by other provisions of this Title. Such lots must be in separate ownership. This provision shall apply even though such lot fails to meet the requirements for area, width, or both, that are generally applicable in the district; provided, that yard dimensions and requirements other than those applying to area, width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment.

B. Lots And Parcels: If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of

record at the time of passage or amendment of this Title, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Title, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Title, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this Title. (Ord. 1985-03, 4-16-1985)

10-12-3: NONCONFORMING USES OF LAND WITH MINOR STRUCTURES: Where at the time of passage of this Title, lawful use of land exists which would not be permitted by the regulations imposed by this Title, and where such use involves no individual structure with a replacement cost exceeding one thousand dollars ($1,000.00), the use may be continued so long as it remains otherwise lawful, provided:

A. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Title.

B. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Title.

C. If any such nonconforming use of land ceases for any reason for a period of more than thirty (30) days, any subsequent use of such land shall conform to the regulations specified by this Title for the district in which such land is located.

D. No additional structure not conforming to the requirements of this Title shall be erected in connection with such nonconforming use of land. (Ord. 1985-03, 4-16-1985)

10-12-4: NONCONFORMING STRUCTURES: Where a lawful structure exists at the effective date of adoption of this Title that could not be built under the terms of this Title by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

B. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Title.

C. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved. (Ord. 1985-03, 4-16-1985)

10-12-5: NONCONFORMING USES OF STRUCTURES OR OF STRUCTURES AND PREMISES IN COMBINATION: If lawful use involving individual structures with a replacement cost of one thousand dollars ($1,000.00) or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of terms of this Title, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No existing structure devoted to a use not permitted by this Title in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption of this Title, but no such use shall be extended to occupy any land outside such building.

C. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a special exception be changed to another nonconforming use; provided, that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accord with the provisions of this Title.

D. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be

resumed.

E. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six (6) consecutive months or for eighteen (18) months during any three (3) year period (except when government action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.

F. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. "Destruction" for the purpose of this subsection is defined as damage to an extent of more than fifty percent (50%) of the replacement cost at time of destruction. (Ord. 1985-03, 4-16-1985)

10-12-6: REPAIRS AND MAINTENANCE:

A. On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, to an extent not exceeding ten percent (10%) of the current replacement cost of the nonconforming structure or nonconforming portion of the structure as the case may be; provided, that the enclosed area existing when it became nonconforming shall not be increased.

B. If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

C. Nothing in this Title shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, if such official so orders the strengthening or restoring. (Ord. 1985-03, 4-16-1985)

10-12-7: USES UNDER SPECIAL EXCEPTION OR VARIANCE: Any use which is permitted as a special exception or a variance from the terms of this Title (other than a change through Board of Adjustment action from a nonconforming use to another nonconforming use), shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use. (Ord. 1985-03, 4-16-1985)

CHAPTER 13

OFF-STREET PARKING AND LOADING

SECTION:

10-13-1: Off-Street Parking Requirements
10-13-2: Loading And Unloading Requirements

10-13-1: OFF-STREET PARKING REQUIREMENTS: The following minimum number of off-street parking spaces are required for the following uses in all districts:

Type Of Use	Parking Space Required
A. Dwellings:	
Single-family dwelling unit	2 spaces per dwelling
Two-family dwelling unit	2 spaces per dwelling
Multiple-family dwelling unit	1.5 spaces per dwelling
Rooming houses	0.5 space per dwelling
Boarding houses	0.7 space per living unit
B. Public And Semi-Public Educational And Institutional Uses:	
Auditoriums	
Elementary and junior high schools	

1 space per 100 square feet of net leasable area
1 space for 4 seats
2 spaces plus 1 additional space for each 10 children
1 space for each classroom, workshop, laboratory or office plus 1 space per 200 square feet of auditorium, gymnasium and cafeteria
Churches Daycare facilities
City of Sunland Park
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Type Of Use Libraries or museums
Municipal neighborhood, community buildings
Public buildings other than elementary and high schools
Senior high school
C. Recreational And Entertainment: Bowling alley
Gymnasiums, stadiums, field houses, grandstands, and related facilities
Hospital, medical center, other treatment facility
Medical offices
Nursing homes, sanitariums, convalescent homes, institutions for care of aged, children, etc.
Parking Space Required
1 space per 250 square feet of net leasable area
1 space per 250 square feet of net leasable area
1 space per 250 square feet of net leasable area
4 spaces for each classroom, workshop, laboratory or office plus 1 space per 200 square feet of auditorium, gymnasium and cafeteria
5 spaces per lane
1 each per 4 seats or spectator spaces
1 space per each 2 beds, plus the number required, based on square feet measurement for office, clinic, testing, research, administrative, teaching and similar activities associated with the principal use, at 1 space per each 350 square feet of net leasable area except for teaching facilities which shall be 1 per each 4 seats
1 space per 200 square feet of net leasable area
1 space per each 2 beds
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Type Of Use
Parks, athletic fields, tennis and pool facilities, golf courses, etc.
Public gatherings (general) for uses involving public assembly of groups of people for whatever reason
Recreational and community center buildings, recreation clubs, related uses
Recreational buildings (enclosed), specialized facilities and related uses
Theater
Parking Space Required
As determined by the Planning and Zoning Commission
1 space per each 4 seats, based on total capacity
As determined by the Planning and Zoning Commission
As determined by the Planning and Zoning Commission
1 space per each 3 seats
D. Commercial Uses, General: uses shall meet minimum
New Mexico Professional
Parking requirements for the following
design standards accepted by the
Engineers Design Standards:

Art galleries
Automobile service station and garage for minor repair
Barbershops Beauty shops

Bicycle sales and repair
Blueprinting and photocopying
Business machine sales and service
Carpet stores Currency exchanges
City of Sunland Park
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Parking Space Required
Type Of Use
Drug stores
Dry cleaning establishments Florist shops
Food stores
Fraternal organizations Funeral parlors
Furniture stores
Garden supply and nursery
General merchandise and appliance stores
General repair shops, e.g., electrical
Gift shops
Hardware stores Interior decorators Liquor stores
tf
Merchandise stores, (other specific), e.g., draperies, fireplaces, glass, greeting cards, jewelry
Opticians or optometrists
Paint and wallpaper stores
Physical culture and health salons Post offices
Private clubs
City of Sunland Park
10-13-1 10-13-1
Type Of Use Parking Space Required
Private schools of instruction, e.g., music, karate
Radio and television service and repair shops
Restaurants
Sporting goods stores
Transportation terminals 1 per each 200 square feet of net leasable area
E. Commercial Uses, Specific Requirements:
Auto and junkyards 1 space per 1,700 square feet of land and building area
Auto sales, new and used 1 space per 200 square feet of
Drive-in banks building area including repair shop minus area used for displaying cars

1 space per 350 square feet of net leasable area plus 1 space per 30 square feet of drive-in teller space, plus customer drive-in spaces as determined by the Planning and Zoning Commission

Drive-in eating and drinking establishments 1 space per 30 square feet with a 10 space minimum
Eating and drinking establishments 1 space per 50 square feet of serving area
Home occupation' 1 space per 200 square feet for area used for home occupation purposes
1. See also Section 3-4-4 of this Code.
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Type Of Use	Parking Space Required
Hotel and motel	1 space per rental unit
Industrial uses and industrial parks (other)	As determined by the Planning and Zoning Commission
Industrial uses, specific warehouse and distribution	1 space per 500 square feet of net leasable area
Mini warehouses	1 space per 10 storage areas
Neighborhood groceries and laundromats	1 space per 400 square feet of net leasable area
Office uses	1 space per 350 square feet of net leasable area
Shopping centers	5 spaces per 1,000 square feet of net leasable area

(Ord. 1985-03, 4-16-1985; amd. 2000 Code)

10-13-2: LOADING AND UNLOADING REQUIREMENTS: The following minimum loading and unloading requirements shall be complied with in all districts:

A. Loading areas shall be paved in conformance with paving requirements specified in off-street parking standards.

B. All permitted or permissible uses requiring loading space for normal operations shall provide adequate loading space so that no vehicle being loaded or unloaded in connection with normal operation shall stand in or project into any public street, walk, alleyway, required front yard or common ingress-egress easement.

C. Adequate off-street loading facilities shall be separated and not considered to be a part of required off-street parking facilities. (Ord. 1985-03, 4-16-1985)

CHAPTER 14

SIGNS

SECTION:

10-14- 1: Title
10-14- 2: Purpose and Scope
10-14- 3: Definitions
10-14- 4: Sign Permit Procedure
10-14- 5: Variances
10-14- 6: Special Use Permit
10-14- 7: Prohibited Signs
10-14- 8: Permitted Signs General Conditions
10-14- 9: Permitted Signs by Zone District
10-14-10: Temporary Signs
10-14-11: Signs Not Requiring Permits
10-14-12: General Provisions
10-14-13: Enforcement
10-14-14: Appendix 1; Illustrations

10-14-1: **TITLE:** This chapter shall be entitled "The Sunland Park Sign Code" hereinafter referred to as "this chapter." (Ord. 2006-10, 10-17-2006)

10-14-2: **PURPOSE AND SCOPE:**

A. Purpose: The purpose of this chapter is to permit signs that will preserve the natural beauty and environment of the city, to safeguard, stabilize and enhance property values, to insure a consistent and appropriate visual environment and to protect the public health, safety, and general welfare. It is the purpose of this chapter to have signs in the city that will not—by their size, location, or construction—endanger the public health and safety of individuals, or confuse, mislead, or obstruct the vision necessary for traffic safety. Furthermore, it is the purpose of this chapter to maintain property values and to create a more aesthetically pleasing community, through the preservation of the natural beauty and environment of the city, by preventing the over-concentration, improper placement, and density of signs while keeping in mind the importance of signage to the business community.

B. Applicability:

1. The provisions of this chapter shall apply to all "signs" as the term is defined in this chapter.

2. Hereinafter, all construction, relocation, enlargement, alteration, and modification of signs within the city shall conform to the requirements of this

chapter, all state and federal regulations concerning signs and advertising, and applicable building and construction codes.

3. If a permit for a sign has been issued in accordance with law prior to the effective date of this chapter and provided that construction is begun within six (6) months of the effective date of this chapter and diligently prosecuted to completion, said sign may be completed in accordance with the approved plans on the basis of which the permit has been issued, subject thereafter, if applicable, to the provisions herein for nonconforming signs.

C. Administration: The competent authority shall have the power to administer and enforce the provisions of this chapter. The competent authority may use discretion to delegate and assign such administrative, enforcement, and inspection duties hereunder to the appropriate department, person or agency.

D. Severability: If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable. (Ord. 2006-10, 10-17-2006)

10-14-3: **DEFINITIONS:**

ABANDONED SIGN:	An on- or off-premises sign which no longer directs, promotes, or advertises a bona fide business, lessee, owner, product, or activity conducted, or product or service available on- or off- the premises where such sign(s) is displayed.
ADVERTISING:	The action of calling something to the attention of the public by verbal or visual presentation.
ANIMATED SIGN:	Any sign which oscillates, rotates, flashes, varies in intensity or in color, or automatically changes advertising, or is animated or equipped with a glaring or rotating strobe light, or with spot lights.
ATTACHED SIGN:	Any sign which is fastened to, connected to, or painted on, and wholly or partially supported by a building.
AWNING:	A hood or cover which projects from the wall of a building and is composed of rigid or non-rigid materials.
AWNING SIGN:	A sign which is fastened to or painted on an awning.

BANNER:	A sign composed of lightweight, flexible material on which letters, symbols or pictures are painted or printed.
BENCH SIGN:	Any sign affixed to or printed on a functional bench.
BILLBOARD:	An off-premises sign directing attention to a business, activity, commodity, service, entertainment, or communication, none of which may be conducted, sold or offered on the premises where the billboard is located.
BUILDING FRONTAGE:	The total length of a building on which a sign is allowed at its front facade.
BUS SHELTER:	A place to wait for buses that has a roof to provide protection from the weather or danger.
BUSINESS/SERVICE CENTER:	A group of two (2) or more businesses planned, constructed, owned and managed independently or as a total entity, which share access, parking, or landscaping.
CABINET SIGN:	Also known as "can sign", any sign that is manufactured so as to be three (3) dimensional usually made of metal with plexiglass front and internally illuminated.
CANOPY (OR MARQUEE):	A permanent roof-like shelter extending from part or all of a building or independent of a building.
CANOPY SIGN:	A sign attached to or painted on a canopy.
CHANGEABLE COPY SIGN:	Any sign that is constructed in such a manner as to allow the business owner to change the copy at will.
CITY:	The city of Sunland Park, New Mexico.
CLEAR-SIGHT TRIANGLE:	A triangular area of unobstructed vision at street intersections and at curb cut entrances and exits.
CODES:	Any other applicable city, state, or federal codes.

COMPETENT AUTHORITY:	A city official appointed by the city council or its designated representative to enforce the terms of this chapter.
CONSTRUCTION/ RENOVATION SIGN:	Any temporary sign erected on the premises where construction/renovation is taking place and indicating the names of the architects, engineers, landscape architects, financial institutions, contractors or similar artisans, and the owners, sponsors, and similar individuals or firms having a role or interest with respect to the structure or project.
COPY:	The verbal, visual or pictorial portion of any sign.
CORPORATE:	Pertaining to any organization incorporated pursuant to a law.
DEVELOPMENT IDENTIFICATION SIGN:	A permanent sign installed or constructed at the entrance/exit to a residential or commercial development to identify the development name and logo only.
DIRECTIONAL SIGN:	Any sign erected for the convenience of the public, such as the directing traffic movement, parking or identifying restrooms, public telephones, walkways and/or other similar features or facilities, and bearing no advertising message (excluding those erected by the United States Department of Transportation and the New Mexico State Highway and Department of Transportation).
DRIVE-THROUGH FACILITY:	An establishment that by design, physical facilities, service or by packaging procedures, encourages or permits customers to receive services, obtain goods or be entertained while remaining in their motor vehicles.
FREESTANDING SIGN:	Any sign attached to, or supported from the ground, and not attached to a building.
GARAGE/YARD SALE SIGN:	See definition of PRIVATE SALE or EVENT SIGN.
GATE ENTRANCE SIGN:	Any sign installed or constructed over the street entrance to the premises in specific zoning districts as described herein.

GOVERNMENT SIGN:	Any sign erected by any city, county, state or federal agency or its designee, setting forth information pursuant to law.
HOME OCCUPATION:	An incidental accessory use of a dwelling unit for gainful employment of the residents therein, which use does not change the essential residential character or appearance of the dwelling unit.
HOUSE OR BUILDING SIGN OR NAMEPLATE:	A sign limited to identifying the street name, building or property number, and/or the name of the owner or occupant of the building or property.
ILLUMINATED SIGN:	Any sign which is lighted internally, externally or by lights directed towards the sign by any light source.
INDUSTRIAL CENTER:	Industrial building or structure that has the capacity of leasing, renting or owning two (2) or more than one (1) tenant.
INFORMATION SIGN:	Any sign whose purpose is to indicate a business, hours of operation or similar identification information.
LEGAL NOTICES:	Any sign required by law or pursuant to a court order.
MAINTENANCE:	The total upkeep of a sign; structurally and electrically, in terms of safety, and cosmetically, in terms of visual attractiveness.
MAJOR TENANT:	Any occupant of a multi-tenant commercial or industrial center that occupies a space greater than five thousand (5,000) square feet.
MASTER SIGN PROGRAM:	A program in which a multi-tenant commercial or industrial center, wishing to place a variety of signs to be located in the center is required to engage by providing a master plan depicting an illustrative model design of the proposed sign to be installed.
MARQUEE (OR CANOPY):	See definition of CANOPY.
MARQUEE SIGN:	A sign attached to, mounted on or painted on a marquee.

MASS TRANSIT SHELTER:	A place to wait for buses that has a roof to provide protection from the weather or danger.
MINOR TENANT:	Any occupant of a multi-tenant commercial or industrial center that occupies a space less than five thousand (5,000) square feet.
MODEL COMPLEX SIGN:	Any sign located on a complex site, limited in time until the complex ceases to be a model complex.
MONUMENT SIGN:	Any sign which is attached to either the ground or to a footing set flush with the ground.
MULTI-TENANT:	Any commercial or industrial building or structure that has the capacity of leasing or renting two (2) or more than one (1) tenant.
MURAL:	A picture or graphic illustration applied directly to a wall of a building or structure which does not advertise or promote a particular business, service or product.
NATIONAL, STATE AND CORPORATE FLAGS:	Any rectangular display constructed of lightweight material used to identify a nation, state or corporation.
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 or this chapter.
OFF-PREMISES SIGN:	Sign which advertises or directs attention to a business, product, service or activity which is not available on the premises where the sign is located.
ON-PREMISES SIGN:	Sign which advertises or directs attention to a business, product, service or activity which is available on the premises where the sign is located.
OPEN HOUSE:	The common real estate practice of showing "for sale" homes to the public during established hours.
PENNANT:	A display made of a lightweight material which tapers to a point, having no logo or advertising message printed on it.

PERSON:	An individual, company, corporation, partnership, association or any other entity.
POINT-OF-SALE SIGN:	Any sign which is located or attached directly to the product to be sold.
POLE SIGN:	Any sign whose primary means of support is one (1) or more poles set into a concrete footing, located at or below ground level.
POLITICAL SIGN:	A sign pertaining to any national, state or local election.
PORTABLE SIGN:	A freestanding sign not permanently affixed, anchored or secured to the ground or the building, which may be rolled or moved about.
PRIVATE SALE OR EVENT SIGN:	A temporary sign advertising private sales of personal property at garage, yard or estate sales and the like, private fundraising events, such as nonprofit carwash, or food/ clothing drive, etc.
PROHIBITED SIGN:	Any sign not expressly permitted within this chapter, or any sign which is specifically prohibited in this chapter.
PROMOTIONAL DISPLAY (COMMERCIAL):	Special advertising for grand openings, anniversaries, special or seasonal events, and which is for a limited time, in addition to the legal signage permitted.
PROMOTIONAL DISPLAY (RESIDENTIAL):	Special advertising using pennants, flags, streamers, banners, open house signs and other similar signs, the duration of an open house or similar showing.
PYLON SIGN:	Any sign which is supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structures. A pylon sign architecturally complements and is compatible with the design of the building/center for which the sign is publicizing.
REAL ESTATE DIRECTIONAL SIGN:	A sign which advertises or directs attention to real property or properties not available on the premises where the sign is located.

REAL ESTATE SIGN: A sign intended to advertise the financing, development, sale, transfer, lease, exchange or rent of real property or properties.

ROOF SIGN: Any sign which is attached to the roof of a building or structure.

SETBACKS: The required distance between every building or structure and any lot line on the lot on which it is located. Setbacks shall consist of an open space, unoccupied and unobstructed by any part of a building or structure, except as may be authorized by this title. Also, for purposes of this chapter, the distances required from the property line or from other buildings and/or structures or businesses and/or structures to each other.

SHOPPING CENTER: A group of at least three (3) commercial establishments within a building or buildings with a gross floor area of eight thousand (8,000) square feet or more planned, constructed and managed as a total entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements.

SIGN: Any advertisement, announcement, direction or communication produced in whole or in part by the construction, erection, attachment or placing of a structure or object on any land, or on any other structure, or produced by painting on, posting or placing any printed, lettered, pictured, figured or colored material on any building, structure or surface.

SIGN AREA: The entire advertising area of the sign containing text, decorative artwork, logos or other displayed information, including the space within and between such text and information.

SPECIAL USE SIGN: Any sign intended for use by establishments requiring a special use permit pursuant to this title.

STREAMERS: A display made of light, flexible material, consisting of long, narrow, wavy strips having no logo or advertising message printed or painted on them.

STRUCTURAL REQUIREMENTS:	The safety standards which apply to those signs which are governed by the requirements in the applicable building code and other companion documents.
TEMPERATURE/TIME/ DATE SIGN:	Any sign with the purpose of displaying the temperature, time, date and/or logo/name.
TEMPORARY SIGN:	Any sign intended for a limited period of display.
TOTAL STREET FRONTAGE:	The total length of a property fronting on any side of a public street. Each portion of the premises abutting a separate street shall be considered as a separate street frontage.
TRADEMARK/LABEL/ NAME:	Identification applied or attached to each permitted sign to designate the manufacturer and installer.
UNLAWFUL SIGN:	Any sign ever erected which does not have a valid permit, or after erection, did not comply with all the applicable provisions of the permit under which it was constructed and erected, or did not comply with all provisions of codes, or which did not meet the necessary requirements to be considered nonconforming.
UNSAFE SIGN:	Any sign identified by the competent authority or his/her designee as being improperly constructed and installed, erected or secured, thereby subject to falling and creating a safety hazard, with supported findings.
VARIANCE:	An authorization granted to the applicant to depart from the numerical requirements of the zoning regulations (as applied here, the sign regulations).
VEHICLE:	Any truck, trailer, pushcart, cart, wagon, conveyance or structure not permanently fixed to a permanent foundation and which may be moved under its own power, towed by a motor vehicle or carried upon or in a motor vehicle or trailer. This definition includes those vehicles known as "catering trucks". Includes any motor vehicle such as automobile, automobile truck, automobile wagon, motorcycle, recreational vehicle, trailer or other self-propelled vehicle or movable device designed for running on land but not on rails.

VEHICLE SIGN: A sign painted on or attached to either a vehicle, or a trailer designed to be pulled behind a motorized vehicle, which relates to a business, activity, use, service or product for a legally authorized business.

WALL SIGN: Any sign parallel and attached to a wall, painted or affixed to a separate surface which is then mounted securely to the building, painted or produced directly on the building, or composed of separate letters, numbers, logos or symbols attached to the surface of the building, or erected and confined within the limits of an exterior wall of a building or structure, which supported by such wall, and displays one (1) sign surface.

WINDOW SIGN: Any sign that is applied or attached to the exterior or interior of a window or a window frame. (Ord. 2006-10, 10-17-2006)

10-14-4: **SIGN PERMIT PROCEDURE:**

A. Permit Required. It is unlawful for any person to erect, alter, or to permit the erection or alteration of a sign, including painted signs, unless otherwise exempted by this chapter, upon any property without first obtaining a written sign permit from the city. Application for such permit shall be made on a form provided by the city and shall be accompanied by a fee as established by this chapter. In residential zones, signs less than two (2) square feet shall not require a permit and must meet the requirements set forth in this chapter. Any signs in commercial or industrial zones greater than four (4) square feet requires a sign permit. Signs four (4) square feet or less do not require a sign permit but must meet the requirements set forth in this chapter.

B. Sign Permit Application:

1. The application shall set forth and contain the following information and material:

a. Name, address, telephone number, and license number of contractor who will install or erect the sign;

b. Name, address, and telephone number of the person who will erect, alter, construct, or relocate the sign (if different from the applicant);

c. Name, address, and telephone number of the person or firm for whom the sign is being made or installed (if different from the applicant) along with business registration number;

d. Zoning of property upon which the sign is to be located;

e. The location and size of any building or structures on the property, in the control of the applicant, both existing and proposed;

f. The location of off-street parking facilities, including major points of entry and exit for motor vehicles where directional signs may be proposed;

g. The position of the proposed sign and its relation to adjacent buildings and structures under the control of the applicant;

h. The design and size, colors proposed, and proposed location of the sign or sign structure on the property, under the control of the applicant;

i. The method of attachment to any structure;

j. A statement showing sizes and dimensions of all other signs existing on the property, under the control of the applicant;

k. A statement showing the size and color relationships of such sign or sign structure to the appearance and design of existing or proposed buildings and structures on the property; and

l. Any other information as the community development director may reasonably require to assure compliance with this chapter and the ordinances of the city.

2. New businesses will be required to present a design and construction drawing of the signs that they will propose at the location where the business will be located at the same time as a request for a business license or registration is completed.

C. Issuance Of A Sign Permit: The building inspector, or the competent authority, shall, within thirty (30) days of the filing of the completed application, grant such permit if and only if:

1. The application contains all necessary information;

2. The appropriate sign permit fee has been paid;

3. The person erecting, altering, constructing, or relocating the signs holds a valid and current sign license;

4. If the sign requires electrical service, proof that the electrical work will be done by a certified electrician and a proper inspection by the competent authority is completed;

5. The sign complies with this chapter, all other city ordinances, and all applicable state and federal law.

D. Sign Review Criteria:

1. All signs which are regulated by this chapter shall be subject to the approval of the community development director. In approving or rejecting a particular sign permit, the competent authority shall utilize the following review criteria:

a. That the sign is consistent with the intent and purpose of this chapter and zoning title;

b. That the sign does not constitute a detriment to public health, safety, and welfare;

c. That the size, shape, color, and placement of the sign is compatible with and bears a harmonious relationship to the building it identifies;

d. That the size, shape, color, and placement of the sign is compatible with and bears a harmonious relationship to the neighborhood and other signs in the area;

e. That both the location of the proposed sign and the design of its visual elements (lettering, words, figures, colors, decorative motifs, spacing, and proportions) are legible under normal viewing conditions prevailing where the sign is to be installed;

f. That the location and design of the proposed sign does not obscure from view or unduly detract from existing or adjacent signs;

g. That the location and design of the proposed sign, its size, shape, illumination, and color are compatible with the visual characteristics of the surrounding area so as not to detract from or cause depreciation of the value of adjacent developed properties;

h. That the location and design of a proposed sign in close proximity to any residential district does not adversely affect the value or character of the adjacent residential district;

i. That the sign does not display any obscene matter as defined in this code or New Mexico Penal Code;

2. The competent authority may grant a permit with the condition that the work be stopped at specified time(s) to permit inspections.

E. Appeal Process For Permits Denied: If the competent authority denies such permit, he/she shall state the reason(s) for denial to the applicant. If the competent authority fails to take any action on a completed application (as provided in subsection C. above) within thirty (30) days, the application is deemed denied. Permits that are denied may be appealed in writing to the

planning and zoning commission through an appeal process. All appeals shall be filed with the competent authority within thirty (30) days from the date of the denial. If the planning and zoning commission affirms the denial of the permit, the applicant may file a second appeal to the city council. The second appeal shall be filed with the city clerk within thirty (30) days from the date on the denial.

F. Sign Permit Fee:

1. Permanent Signs. The fee for a sign permit shall be a total of thirty dollars ($30.00) for the review and issuance of the sign permit plus ten percent (10%) of the total valuation of construction and erection of the sign. Payment is due at the time of the filing of a permit application. If a permit is denied, only the percent valuation cost is refundable provided the applicant makes a written request for a refund.

2. Temporary Signs. The fee for a sign permit for a temporary sign shall be the thirty dollars ($30.00) sign permit issuance fee. Temporary signs are allowed for no more than one (1) year. After one (1) year, a renewal application and corresponding fee shall be paid. No more than three (3) renewals shall be permitted. (Ord. 2006-10, 10-17-2006)

10-14-5: **VARIANCES:** Where a literal application of this chapter, due to special circumstances, would result in an unusual hardship in an individual case, a variance may be granted by the planning and zoning commission in accordance with the procedure for obtaining a special use permit set out in sections 10-10-2 and 10-10-4 of this code, including consideration of the following but not limited to:

A. Exceptional conditions pertaining to the property where the sign is to be located as a result of its size, shape, or topography, which are not applicable to other lands or structures in the area.

B. The applicant would be deprived of rights that are commonly enjoyed by others similarly situated.

C. Granting the variance would not confer on the applicant any significant privileges which are denied to others similarly situated.

D. The exceptional circumstances are not the result of action by the applicant.

E. The requested variance is the minimum variance necessary to allow the applicant to enjoy the rights commonly enjoyed by others similarly situated.

F. Granting of the variance would not violate more than one (1) standard of this chapter.

G. Granting the variance would not result in allowing a sign that interferes with road or highway visibility or obstruct or otherwise interfere with the safe and orderly movement of traffic. (Ord. 2006-10, 10-17-2006)

10-14-6: **SPECIAL USE PERMIT:** All signs which are regulated by this chapter and require a special use permit shall follow the procedure set forth in sections 10-10-2 and 10-10-4 of this code. The following shall require a special use permit:

A. Flashing, neon, or animated signs within a commercial district for entertainment related business;

B. Signs on rock or natural features which are professionally installed and manufactured.

C. All multi-tenant commercial or industrial centers consistent with section 10-14-9. (Ord. 2006-10, 10-17-2006)

10-14-7: **PROHIBITED SIGNS:** The following signs shall not be permitted:

A. Any sign not expressly permitted within this chapter, or any sign which is specifically prohibited in this chapter.

B. Billboards (on- and off-premise).

C. Roof signs.

D. Portable signs.

E. Signs in public rights-of-way.

F. A sign placed or painted on any motor vehicle, recreational vehicle, trailer or other movable device that reasonably indicates the use of such vehicle, trailer or device as a sign is prohibited. This includes the parking of such vehicle, trailer or device in such a manner as to constitute a sign. This does not include vehicles, used in the course of normal business activities parked at the legally registered business with appropriately installed, business information signs affixed in a professional manner. Vehicles with signs may not be parked for considerable lengths of time at a location different from the place of business unless the vehicle with the sign is providing a service related to the business at that different location.

G. A flashing, rotating or animated sign, or a sign with intermittent or varying intensity of illumination, whether deliberate or resulting from a defect in the sign or light source in residential, agricultural and industrial districts.

H. Any sign constructed to resemble any official marker or sign normally erected by a city, state or federal government agency or a sign using words, phrases, symbols or characters in such a manner as to interfere with, mislead or confuse traffic.

I. A sign advertising activities that are illegal according to federal or state laws, rules or regulations and county or city ordinances or resolutions.

J. Any sign erected on, attached to or painted on retaining walls, fences, rocks or natural features which are not professionally manufactured.

K. Any sign illegally placed, constructed or maintained. (Ord. 2006-10, 10-17-2006)

10-14-8: **PERMITTED SIGNS GENERAL CONDITIONS:**

A. Calculation Of Sign Area:

1. The sign area of any sign, including building-mounted or freestanding signs shall be considered to be the entire advertising area of the sign containing text, decorative artwork, logos or other displayed information, including the space within and between such text and information.

2. The sign area of a freestanding sign is measured by determining the sign area of all sides that are visible from any one (1) vantage point, except only one (1) side of a sign shall be measured if the two (2) sides are back to back or separated by an angle of forty-five degrees (45°) or less. If the two (2) sides are not of equal size, the larger side shall be measured.

3. The sign area of building-mounted signs shall not include structural elements used to attach or support the sign that do not contribute to the display.

4. The sign area of freestanding signs shall not include the supporting base or poles.

B. Structural Requirements:

1. All signs shall conform to the structural design requirements set forth in the Uniform Standard Building Code or the International Building Code and companion documents.

2. Sign permit applications for freestanding signs shall have a maximum height of ten feet (10') - height shall be measured from ground level to edge of sign. All applications shall be accompanied by an engineer's design drawing showing the appropriate calculations. Said drawing shall be stamped by an engineer certified in the state.

C. Sign Placement Provisions:

1. No sign shall be permitted to violate the "clear-sight triangle" as defined in this chapter.

2. Signs may 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 obscures or interferes with the clear view of any traveler on any street.

3. No sign shall be constructed within any public right-of-way or sidewalk nor shall any portion of any sign extend onto or over a public right-of-way or sidewalk.

4. No banner shall be erected across any street or sidewalk in the city unless express (written) consent has been granted by the city council.

5. Any sign extending over an area intended for pedestrian use shall not be less than seven feet four inches (7'4") above the finished grade below it and only through specific exception granted by the city council.

6. No sign shall be placed on any property without written consent of the owner(s) or the owner(s)' authorized agent.

7. Freestanding signs associated with commercial uses shall maintain a minimum setback distance of five feet (5') from the back of the sidewalk which, for the purposes of this section, shall be defined as the edge of the sidewalk that is farthest away from the curb, gutter and street.

8. Distance separation between freestanding signs located on different street frontages shall be measured along the street frontage to the point of intersection of both street frontages. Freestanding signs shall be separated by at least one hundred feet (100').

D. Lighting Provisions:

1. Light from any (light) source intended to illuminate a sign shall be shaded, shielded, or directed in such a way so that the light intensity or brightness shall not adversely affect the safe vision of pedestrian or vehicle operators on public or private streets, driveways, or parking areas, and shall not adversely affect any of the surrounding premises.

2. Illumination from any sign shall not interfere with the effectiveness of any official traffic sign, signal or device.

3. The illumination shall also be shielded in order to avoid upward glare that would tend to violate the state "dark sky" provisions.

4. Signs which face residentially zoned lots having a linear distance of one hundred fifty feet (150') or less from the residential zone shall not be illuminated.

5. Unless otherwise authorized by this code or the competent authority, internally illuminated signs which use the technique known as "push through" as well as individually illuminated, channel lettering or halo lighting is required. The competent authority may allow a modification of this requirement in the interest of aesthetics or compatibility. Illumination of industrial monument signs shall not occur by the use of internally illuminated signs.

6. Signs in residential zones shall not be illuminated with the exception of the address.

7. All lighting fixtures shall be as small as possible and integrated with the sign design and building architecture.

8. All proposed lighting schemes shall be included in tenant's submission to landlord for approval prior to construction or installation.

9. Illumination shall not blink, flash, or fluctuate.

10. All freestanding signs which incorporate lighting shall be served by underground utility. (Ord. 2006-10, 10-17-2006)

10-14-9: **PERMITTED SIGNS BY ZONE DISTRICT:**

A. Residential Zones (RE, R-1, TC, MR, MF):

1. Permitted Signs:

a. Development identification sign, not more than thirty-two (32) square feet:

(1) Maximum sign area shall not exceed thirty-two (32) square feet.

(2) Maximum height shall not exceed six feet (6').

(3) Sign may not be placed in the public right-of-way. This sign may be used in addition to any other freestanding sign allowed pursuant to this chapter.

b. Directional Sign:

(1) Maximum sign area shall not exceed two (2) square feet.

(2) Maximum height shall not exceed four feet (4').

(3) Sign may not be placed in the public right-of-way. This sign may be used in addition to any other freestanding sign allowed pursuant to this chapter.

c. Garage Sale, Private Sale Or Event Sign:

(1) Signs may be used to advertise any event listed above provided that the signs are not over two (2) square feet in sign area, and are used only during the duration of the event.

(2) The person erecting the sign and/or the property owner at the sign location shall be responsible for the sign removal and all other requirements concerning signs in this chapter.

d. Government Sign: Signs by United States or New Mexico Departments of Transportation (USDOT or NMDOT) and other government signs are allowed to be located off-premise.

e. House or building sign or nameplate (maximum sign area shall not exceed four (4) square feet).

f. Legal notices (maximum sign area shall not exceed four (4) square feet).

g. Model Complex Sign:

(1) Maximum sign area shall not exceed thirty-two (32) square feet.

(2) Maximum height shall not exceed six feet (6').

(3) Sign may not be placed in the public right-of-way. This sign may be used in addition to any other freestanding sign allowed pursuant to this chapter.

h. National, state and corporate flags.

i. Political sign (Maximum sign area shall not exceed four (4) square feet).

j. Home Occupation Signs:

(1) One sign per lot permitted.

(2) Maximum sign area shall not exceed two (2) square feet.

(3) Shall only be an attached (wall) sign on the front facade of the property on which a legally registered business is conducted.

(4) Must be professionally designed.

(5) Administrative approval of said sign shall be issued.

k. Real estate signs shall not require a permit if their area is no more than four (4) square feet and the maximum height is no more than four feet (4').

2. Prohibited Signs:

a. Temporary signs.

B. Agricultural Zones (RE-1):

1. Permitted Signs:

a. All signs permitted in residential zones.

b. One freestanding sign, one attached sign or combination of both shall be permitted for advertising purposes only. In no event shall the total combined square footage of both signs exceed thirty-two (32) square feet in sign area.

c. Point-of-Sale Signs:

(1) Maximum sign area shall not exceed four (4) square feet.

(2) Sign may not be placed in the public right-of-way.

2. Prohibited Signs:

a. Temporary signs.

C. Residential Commercial Planned Unit Development (RCPUD): Signs in the RCPUD zones shall be approved through a special use permit (SUP) procedure set out in sections 10-10-2 and 10-10-4 of this code and all types of signs are allowed which are compatible with the use of the property.

D. Commercial And Industrial Zones (C-1, C-2, M-1, M-2):

1. Permitted Signs:

a. All signs permitted in residential and agricultural zones.

b. Attached Sign:

(1) One (1) square foot of signage per one (1) linear foot based on the length of the exterior building wall at the front facade. The sign(s) shall be placed on the side of the building used to calculate the square footage of the sign. The following are considered attached signs:

A. Awning/canopy/marquee signs.

B. Window signs.

C. Wall signs.

These attached signs are subject to the design standards of all applicable codes.

(2) Attached signs may not extend more than eight inches (8") out (depth) from the side of the building to which it is attached.

(3) Attached signs shall not extend beyond the highest point of roof line, or project beyond the edge of a side of the building.

(4) Attached signs should exhibit an architectural design which is compatible to the design of the building.

c. Window Sign:

(1) Permanent window signs may be substituted for attached signage with a corresponding reduction of attached signage.

(2) A window sign does not include merchandise or models of products or services incorporated in a window display.

(3) Window signs are allowed only in C-1 (Light Commercial District) and C-2 (General Commercial District) zones.

d. Drive-thru Menu Boards/Directional Signs:

(1) Drive-thru menu boards are permitted for fast food restaurants with drive-thru service, subject to a size limit of twenty (20) square feet of area and five feet (5') in height.

(2) Drive-thru menu boards/directional signs are allowed only in C-1 (Light Commercial District) and C-2 (General Commercial District).

e. Freestanding Sign: There are two (2) types of freestanding signs allowed by this code: monument - pylon. The number of freestanding signs is limited to one (1) (either one (1) monument or one (1) pylon) per lot unless otherwise allowed under the master sign program. This is in addition to any allowed attached signs. Freestanding signs must comply with the following conditions:

(1) Monument Signs: Monument signs are allowed only in Light Commercial (C-1), General Commercial (C-2) and Industrial Districts (M-1 and M-2).

A. Illumination: Monument signs may be illuminated, consistent with the lighting provisions set out in this code.

B. Landscaping: All monument signs must be surrounded by a minimum four foot (4') wide landscaped planter area; four feet (4') must be measured in all directions.

C. Mounting: The monument sign must have a solid base rather than pole supports.

D. Height: Height of monument signs shall not exceed the dimensions listed in the table below unless otherwise allowed for shopping center sign programs.

E. Size: Size of monument signs is determined as follows:

Linear Street Frontage	***Size Allowed***	***Maximum Height***	***Setback from Front Lot Line***
0 — 100 feet	100 square feet	4 feet	5 feet
101 — 300 feet	150 square feet	5 feet	5 feet
301 — 600 feet	200 square feet	6 feet	7 feet
> 600 feet	200 square feet	8 feet	7 feet

(2) Pylon signs.

A. Pylon signs are allowed only in C-2 (General Commercial District).

B. Design: The design of the pylon sign shall exhibit an architectural design which is compatible to the design of the building in which the business that the sign identifies is located.

C. Illumination: Pylon signs shall be illuminated consistent with the lighting provisions set out in this code.

D. Landscaping: All pylon signs must be surrounded by a minimum of a four foot (4') wide landscaped planter area; four feet (4') must be measured in all directions.

E. Height: Sign height shall not exceed ten feet (10').

F. Mounting: The pylon sign must have either a solid base or individual supports which exhibits an architectural design which is compatible to the design of the building in which the business that the sign identifies is located. Raw material poles are not allowed (i.e. steel pole, 4x4 wood poles, etc).

G. Size: Size of pylon signs is determined as follows:

Linear Street Frontage	*Size Allowed*	*Setback from Front Lot Line*
0 — 100 feet	100 square feet	6 feet
101 — 300 feet	150 square feet	7 feet
301 — 600 feet	200 square feet	10 feet
> 600 feet	200 square feet	10 feet

f. Multi-Tenant Center Signs: For multi-tenant centers, a master sign program is required. The applicant shall submit to the competent authority for processing as a special use permit in accordance with the procedure set out in sections 10-10-2, 10-10-4, and 10-14-6 of this code to be approved by the planning and zoning commission. The sign requirements of a master sign program for a multi-tenant center shall supersede the sign requirements as outlined within this chapter. Multi-tenant center signs are permitted subject to the following provisions:

(1) The developer shall submit to the commission architecturally precise plans delineating all signs to be used in the center including but not limited to information as to size, height, letter type, font, color, depth, illumination, and material to be used.

(2) A multi-tenant center five (5) acres in size or less may have one (1) shopping center sign on each street frontage. The maximum sign face area limits for such a sign are three hundred (300) square feet.

(3) For multi-tenant centers greater than five (5) acres in size may have one (1) shopping center sign on each street frontage, the maximum sign face area for a shopping center sign per street frontage shall be four hundred (400) square feet.

(4) The maximum multi-tenant center sign height limit shall be twelve feet (12') for centers which contain five (5) acres or less.

(5) The maximum multi-tenant center sign height limit shall be fifteen feet (15') for centers which contain more than five (5) acres.

(6) Each multi-tenant center sign shall contain graphic identification of either the name of the multi-tenant center or name or logo of at least one (1) anchor tenant. An anchor tenant for purposes of this section shall be a business containing at least fifteen thousand (15,000) square feet of floor area within the center. This required identification shall contain individual letters or graphic logos at least eighteen inches (18") in height. Any additional desired information shall contain individual letters or graphic logos of at least ten inches (10") in height.

(7) Multi-tenant center signs shall be centrally situated within a landscaped planting area.

g. Multi-Tenant Center Pads: Each separate building pad immediately fronting on a public street within a center is to be made part of the master sign program of the multi-tenant center. Each pad is allowed to have their own monument sign.

h. Promotional Displays: In addition to authorized attached and freestanding signs, occasional events requiring special advertising shall be subject to the following conditions:

(1) Each business shall be limited to one (1) freestanding and one (1) attached sign. Each sign shall not exceed thirty-two (32) square feet in size.

(2) Displays incorporating balloons, streamers, flags and pennants will be permitted as outlined in this chapter.

(3) Each business shall be allowed one (1) permit for a grand opening display during its first six (6) months of operation. The temporary permit for this display shall be for a maximum period of time of no more than one (1) year. Said sign shall not exceed thirty-two (32) square feet.

(4) Each business shall be allowed four (4) promotional displays during each calendar year. The permit for each of these displays shall be for ten (10) consecutive days.

(5) Each business shall be allowed one (1) bona fide going out of business display. The permit for this display shall be for sixty (60) consecutive days.

(6) The applicant shall provide to the competent authority the name and address of the business where the display is to be placed and the first day of the display. No portion of a display (i.e., structure or sign) shall be erected prior to the first day of the event as stated on the permit.

i. Changeable Copy Signs: Changeable copy signs may be approved by the planning and zoning commission through a special use permit in accordance with the procedure set out in sections 10-10-2 and 10-10-4 of this code, subject to meeting the following regulations:

(1) The sign is for the advertising of upcoming or current entertainment, events and/or programs associated with one (1) of the following approved uses:

A. Movie theater with at least one thousand (1,000) seats total; all screens;

B. Performing arts theater (with at least five hundred (500) seats);

C. Nightclub (not for sexually oriented businesses or activities);

D. Public uses (e.g. community center, library);

E. Church;

F. Manufacturer-licensed new car dealership.

(2) Changeable copy signs shall not be allowed as a part of shopping center signs or in conjunction with the operation of a sexually oriented business.

(3) Those uses listed herein may be permitted one (1) changeable copy sign of either a monument, freestanding or attached type. The height and area of such signs shall be regulated by the maximum sign area limits established for commercial and industrial zones as set forth in this chapter.

(4) Display changes on a changeable copy sign may occur at an interval as requested by the applicant provided the applicant can demonstrate that the requested interval of change does not work to the detriment of public safety.

(5) Except for movie theater marquees, cabinet signs with translucent backgrounds shall be prohibited.

j. Gate Entrance Sign:

(1) A gate entrance sign may identify the owner, resident or name of a certain parcel of property (i.e., John Doe Ranch, etc.).

(2) Total height (including poles) for gate entrance signs shall not exceed ten feet (10'). The sign face itself shall not exceed three feet (3') in height and ten feet (10') in width.

(3) A gate entrance sign may be allowed upon approval by the planning and zoning commission of a special use permit in accordance with the procedure set out in sections 10-10-2 and 10-10-4 of this code. The planning and zoning commission may approve sign of less height and size than the maximum allowed by this chapter.

k. Searchlights: Searchlights or other devices which project a beam of light into the sky shall be permitted with approval of a temporary sign permit by the competent authority provided the following conditions shall be met:

(1) Permits shall be issued for grand openings or special events only. A grand opening shall commemorate an initial building opening, a change in ownership of an existing business, a remodel of over fifty percent (50%) of the floor area or a new business in an existing building. A special event may only occur three (3) times per year.

(2) Permits shall be issued for no more than seventy-two (72) hours of duration.

(3) Searchlights shall not be operated so as to constitute a traffic hazard or a nuisance to adjacent or surrounding properties.

(4) Searchlights shall be operated so as to avoid directing the beam at any building.

(5) Searchlights shall be so operated that the beam is not displayed at an angle greater than forty-five (45) degrees from the vertical.

(6) Equipment shall be kept on private property and shall not be allowed within the public right-of-way.

(7) The applicant shall be required to show evidence of insurability by having liability and property damage insurance in force at all times during the time a permit is in effect in sufficient amounts to protect permittee from liability, and to hold the city harmless from any damages, claims or causes of action by reason of the indemnify and issuance of the permit and operation of a special advertising device.

(8) Notification of permit issuance shall be sent to appropriate authorities of any airport that may be affected by searchlights.

l. Home Occupation Signs: All home occupation signs shall be consistent with section 3-4-2F of this code and/or any other applicable sign provision set in this chapter.

m. Consistent Design: Signs on all proposed buildings or new additions to existing buildings shall be designed as an integral part of the total building design.

(1) Sign Colors:

A. For shopping center and multi-tenant complex with and without an approved sign program, all permanent signs may contain no more than four (4) different sign colors within a shopping center and multi-tenant complex. When reviewing a sign permit, consideration will be given to the color of adjacent signs.

B. The sign structure and any related supports shall be the same color and materials throughout a shopping center and multi-tenant complex.

C. Pictorial trademarks/logo and trademark signs shall be excluded from the color limitations as outlined above.

n. Off-Premises Signs:

(1) No person shall erect or maintain any off-premise sign of any kind except in compliance with this chapter, and in accordance with other provisions of this chapter.

(2) Off-premise signs shall be limited to wall signs set back a minimum of five (5) feet from every street right-of-way line.

(3) Off-premise signs shall be limited to one (1) sign on each side of a public street for each one thousand (1,000) foot length of right-of-way.

A. Attached Signs: No attached signs shall be permitted off-premise.

B. Bench Signs:

i. Bench signs are only allowed through a special use permit approved by the planning and zoning commission (in accordance with the procedure set out in sections 10-10-2 and 10-10-4 of this code) and the city council. Bus benches, for which a special use permit has been approved, may be placed in the public right-of-way along bus routes or in areas frequented by pedestrians.

ii. Bus benches are exempt from the location provisions for freestanding signs only when they are located at designated bus stops.

iii. No more than one (1) bench sign shall be allowed per bench.

iv. Bench signs shall be located only on one (1) side of the bench and shall be not larger than ten (10) square feet.

C. Mass Transit Shelter Signs:

i. No more than three (3) signs allowed upon or within a mass transit shelter.

ii. These type of signs shall be permitted only through administrative approval.

D. Garage, Private Sale Or Event Sign: The person erecting the sign and/or the property owner at the sign location shall be responsible for the sign removal and all other requirements concerning signs as listed in this chapter.

E. Political Signs:

i. No individual sign shall exceed six (6) square feet in a residential zone and up to thirty-two (32) square feet for each sign in non-residential zones.

ii. All political signs shall be erected no sooner than sixty (60) days before the election to which they pertain and shall be removed within ten (10) days following same election.

iii. Political signs may be placed twelve (12) hours prior to an election around or nearby the polling site subject to federal and state law and must be removed twelve (12) hours after closing of election polls of set election.

iv. All political signs shall be removed and disposed of properly.

v. Political signs shall not be placed within any public property or right-of-way.

F. Government Signs: Signs by United States or New Mexico Departments of Transportation (USDOT or NMDOT) and other government signs are allowed to be located off-premise.

G. Open House Signs:

i. Open house signs are allowed to be located off-premise in compliance with this chapter.

ii. The person erecting the sign and/or the property owner at the sign location shall be responsible for sign removal and all other requirements concerning signs. (Ord. 2006-10, 10-17-2006)

10-14-10: **TEMPORARY SIGNS:**

A. Construction/Renovation Signs: The signage shall not exceed thirty-two (32) square feet in sign area, and shall not be erected until a building permit has been secured. The sign shall be removed no later than fourteen (14) days after the issuance of a certificate of occupancy or the building permit expires. Such signs shall be limited to one (1) sign per street frontage, not to exceed two (2) such signs, for the general contractor, including all sub-contractors.

B. Real Estate Signs:

1. Residentially-Zoned Lots Or Parcels:

a. Less than 1 acre: one (1) sign per street frontage not to exceed four (4) square feet in sign area per sign. Sign(s) shall not exceed seven feet (7') in height.

b. 1.01 to 5.00 acres: one (1) sign per street frontage not to exceed thirty-two (32) square feet in sign area per sign. Sign(s) shall not exceed eight feet (8') in height.

c. 5.01 to 10.00 acres: two (2) signs not to exceed thirty-two (32) square feet in sign area per sign. Sign(s) shall not exceed eight feet (8') in height.

d. Greater than 10.00 acres: three (3) signs not to exceed thirty-two (32) square feet in sign area per sign. Sign(s) shall not exceed eight feet (8') in height.

2. All Other Zoned Lots Or Parcels:

a. Less than 1.00 acre: one (1) sign per street frontage not to exceed sixteen (16) square feet in sign area per sign. Sign(s) shall not exceed eight feet (8') in height.

b. 1.01 to 5.00 acres: one (1) sign per street frontage not to exceed thirty-two (32) square feet in sign area per sign. Sign(s) shall not exceed ten feet (10') in height.

c. 5.01 to 10.00 acres: two (2) signs not to exceed thirty-two (32) square feet in sign area per sign. Sign(s) shall not exceed fifteen feet (15') in height.

d. Greater than 10.00 acres: three (3) signs not to exceed sixty-four (64) square feet in sign area per sign or two (2) signs not to exceed one hundred twenty-eight (128) square feet in sign area per sign. Sign(s) shall not exceed fifteen feet (15') in height.

3. Real Estate Directional Signs: These signs shall not exceed six (6) square feet in sign area.

4. Model Complex Signs: These signs shall be located on the project site and conform to the following requirements:

a. One (1) sign per complex not to exceed thirty-two (32) square feet in sign area.

b. One (1) sign per model not to exceed four (4) square feet in sign area.

c. Signs are to be removed when the complex ceases to be a model home complex.

d. A temporary permit shall not be approved for longer than twelve (12) months. If a sign is desired for more than twelve (12) months, the applicant must re-apply for renewal of a temporary permit after this time.

e. Shall be constructed of quality materials.

5. Commercial Promotional Displays:

a. Temporary signs advertising a new business "coming soon."

b. Such signs shall be limited to one (1) sign per street frontage, not to exceed two (2) signs, for the new business, including all tenants.

c. Such signs shall be removed immediately upon the receipt of any certificate of occupancy for the new business.

d. Sign area shall not exceed thirty-two (32) square feet.

6. Removal Of Signs: Signs shall be removed seventy-two (72) hours after closing of sale or lease of property.

7. Placement Near Public Ways: No real estate signs shall be erected in the public rights-of-way or in clear-sight triangles.

8. Time: Any temporary sign will be permitted for no more than one (1) year; the applicant shall specify the time that the sign will be in place. (Ord. 2006-10, 10-17-2006)

10-14-11: **SIGNS NOT REQUIRING PERMITS:** Sign permits shall be required for all signs unless otherwise stated in this chapter. Signs that do not require permits, but must follow the requirements as follows:

A. Change of copy on legally established signs.

B. Construction/renovation signs (those not exceeding sixteen (16) square feet in sign area, however, signs exceeding sixteen (16) square feet in sign area will require temporary permit).

C. Decorations for national holidays or community-wide festivals and fiestas. Decorations shall be removed no later than five (5) days after the event/holiday.

D. Directional signs.

E. Garage Sale Signs: Garage sale signs located on the property holding the event shall not be erected any sooner than the day before the event and shall be completely removed no later than six (6) hours after the end of the event.

F. Government signs.

G. House or building signs or nameplates.

H. Legal notices.

I. Model complex signs (those not exceeding sixteen (16) square feet in sign area).

J. National, state and corporate flags following accepted flag protocol.

K. Political signs.

L. Private sale or event signs.

M. Railroad signs.

N. Real estate signs (those not exceeding sixteen (16) square feet in sign area).

1. One (1) sign per street frontage. Not to exceed two (2) total signs.

2. Can be located in front, side or rear of property.

3. Up to a maximum of two (2) sides per any one (1) sign.

O. Streamers.

P. Vehicle signs.

Q. Gasoline Price Signs: Such signs are limited to one (1) per street frontage, and in no case shall an individual gasoline price sign exceed twelve (12) square feet in area.

R. Directional Sign: Directional signs visible from the public right-of-way (i.e., entrance/exit) shall not exceed six (6) square feet in sign area and four feet (4') in height.

S. Flags:

1. Displays incorporating the identification of a nation, state or corporation shall follow accepted flag protocol. Only one (1) corporate flag will be allowed per lot.

2. Displays used to serve as decoration (exclusive of decorations used in fiestas, community-wide festivals or national holidays) shall have no logo or advertising message printed or painted on them.

T. Information Sign: Signs visible from the public right-of-way shall have a maximum size of four (4) square feet in sign area.

U. Pennant: Each sign shall be no larger than two (2) square feet in sign area.

V. Open House Signs: Open house signs located on the property being sold shall be subject to the following minimum requirements:

1. Shall be limited to six (6) square feet in area per side, up to a maximum of two (2) sides per any one (1) sign.

2. Shall not be erected earlier than the day before the event and shall be completely removed no later than two (2) hours after the end of the open house. For the purposes of this chapter, open houses are considered a temporary event rather than taking place for an extended period of time.

3. Shall be either A-frame type signs or mounted in a freestanding manner on either a single stake or on two (2) stakes.

4. Maximum Height: The top of the sign shall not exceed four feet (4') in height.

5. Placement: Shall be placed so as not to obstruct traffic or create an impediment to visibility at street intersections.

6. Shall not be mounted to trees or other landscaping, regulatory traffic signage, utility or light poles or other similar structures. (Ord. 2006-10, 10-17-2006)

10-14-12: **GENERAL PROVISIONS:**

A. Sign Maintenance And Removal:

1. Damaged Signs: When any sign is substantially 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 chapter.

2. Maintenance:

a. All signs shall be kept in good repair, both structurally and in appearance. All braces, bolts, clips, fastenings and 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 message portion of a sign is not maintained or if it is removed, leaving only the supporting "shell" of a sign or the supporting braces, anchors or similar components, the owner of the sign or the owner of the property where the sign is located or other person having control over such sign shall, within thirty (30) days of the removal of the message portion of the sign, either replace the entire message portion of the sign or remove

the remaining components of the sign. This subsection shall not be construed to alter the prohibition on the replacement of a nonconforming sign. Nor shall this subsection be construed to prevent the changing of the message of the sign.

c. Any written notice to repair, alter, or remove a sign shall be sent via certified mail, return receipt requested, by the competent authority to the owner, lessee, or person responsible for the sign. If such order is not acted on within seven (7) days, the competent authority may initiate proceedings to revoke the permit and remove the sign at the expense of the owner, lessee, or person responsible for the sign.

d. Repainting of painted wall signs when more than fifty percent (50%) of the copy has been removed shall require written notice of the proposed repainting be received by the competent authority at least three (3) days prior to repainting.

e. Damaged Signs: When any sign is substantially damaged, destroyed, taken down or removed for any purpose other than copy change or normal maintenance operation, it shall not be re-erected or rebuilt unless a sign permit has been issued.

B. Nonconforming Signs:

1. Subject to the remaining restrictions of this chapter, nonconforming signs that were otherwise lawful on the effective date of this chapter may be continued.

2. No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign. Without limiting the generality of the foregoing, 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 conforming sign.

3. Any change in the use of any building or property in which a nonconforming sign is located, will require that all nonconforming signs on that property be brought into compliance with all applicable provisions of this chapter within nine (9) months of said change.

4. A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this chapter. For the purpose of this subsection, "replaced" means the replacing of any or all parts of a sign that would extend the normal life span of a sign. An example is replacing wood pole supports with metal I-beam supports.

5. If a nonconforming sign is destroyed, damaged or in need of repair, it may not thereafter be repaired, reconstructed or replaced except in conformity with all the provisions of this chapter and the remnants of the former sign structure shall be cleared from the land. For purposes of this subsection, a

nonconforming sign is "destroyed" if damaged up to fifty percent (50%) of the cost of repairing the sign to its former stature or if the cost of replacing it equals or exceeds the tax value (tax value if listed for tax purposes)/sign valuation (as stated on the original permit) of the sign so damaged, whichever is less.

6. The message of a nonconforming sign may be changed so long as this does not create any new non-conformities (for example, by creating an off-premises sign under circumstances where such a sign would not be allowed).

7. If a nonconforming sign other than a billboard advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall be removed within sixty (60) days after such abandonment by the sign owner, owner of the property where the sign is located or other person having control over such sign.

8. The city shall reserve the right to remove a nonconforming sign in accordance with the procedures set out for lien on property.

9. This subsection shall not apply to any benches placed under the terms of any contract in effect on the date of passage of this chapter.

10. Trimming Of Trees: No existing tree shall be trimmed, pruned or removed from a city right-of-way to increase the visibility of any sign, unless such work is first approved by the competent authority. (Ord. 2006-10, 10-17-2006)

10-14-13: **ENFORCEMENT:**

A. Offenses:

1. Every violation of this chapter constitutes an offense subject to the penalty provisions in title 1, chapter 4 of this code.

2. Each day a violation of this chapter exists constitutes a separate offense.

B. Double Permit Fee: The applicable fee for a sign permit shall be doubled when the installation of a sign is commenced before obtaining a permit.

C. Abatement Of Illegal Signs: The competent authority shall have the power to see that this chapter is enforced and to abate any sign within the city which fails to meet the requirements of this chapter or other applicable law.

D. Enforcement Authority:

1. The competent authority or his/her delegate is authorized to issue citations for violations of this chapter and file criminal complaints in municipal court alleging violations of this chapter.

2. The municipal court may impose a fine for each offense, as provided in title 1, chapter 4 of this code for each day the violation is found to have occurred. In addition to any fines thus imposed, the municipal court is authorized to issue orders for removal, revocation of permit, or other judgments. Failure to pay fines previously imposed shall constitute contempt of court and may be separately punished at the discretion of the municipal court. (Ord. 2006-10, 10-17-2006)

10-14-14: **APPENDIX 1; ILLUSTRATIONS:**

Example of Awning Signs:

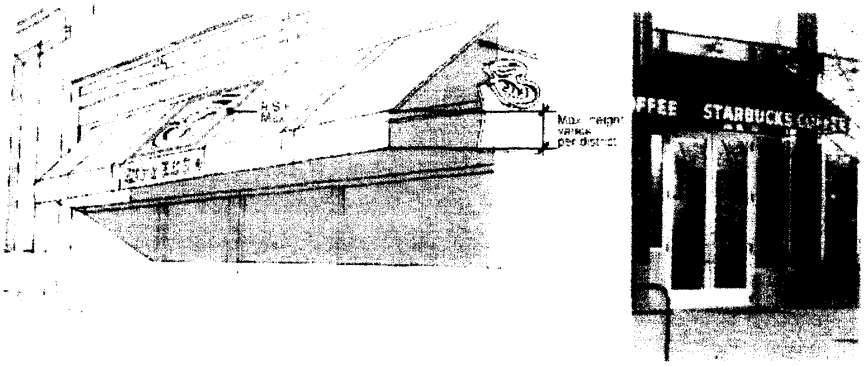
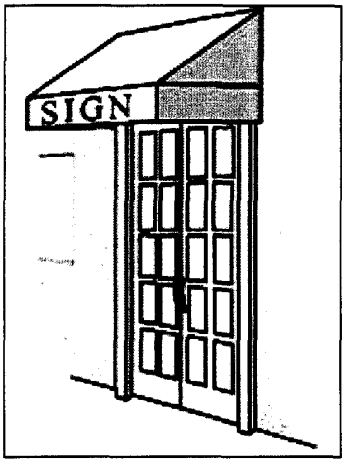
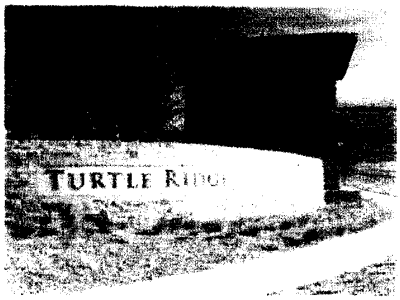


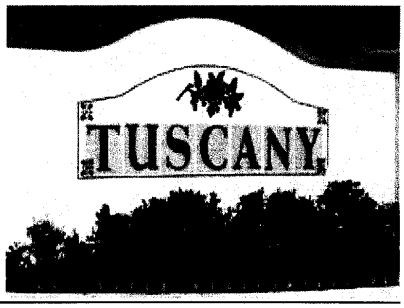
Exhibit 14



Example of Monument Signs:

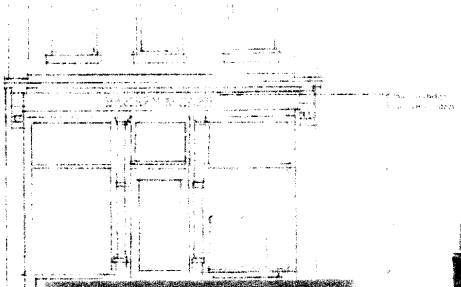


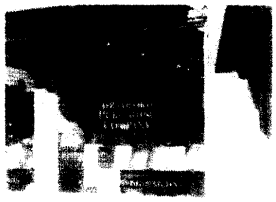
10-14-14



Example of Pylon Signs:

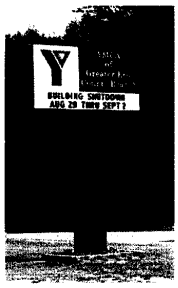
Example of Minor Tenant Wall Sign:

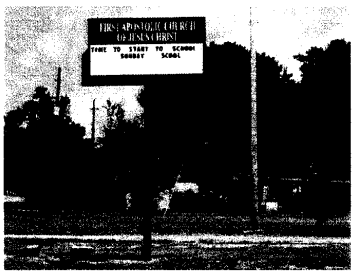




Vehicle Sign:

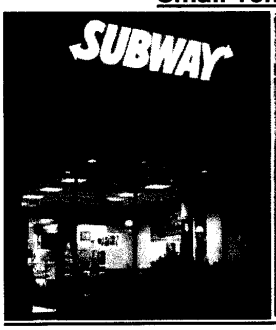
Pole Sign:

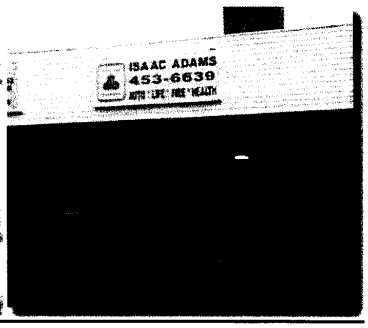




Wall Sign:

Small Tenant/ Business



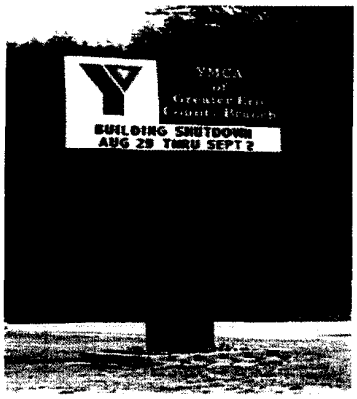


Large Tenant/ Business

Directional Sign:

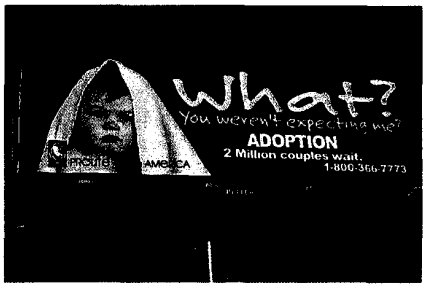
Pole Signs

10-14-14

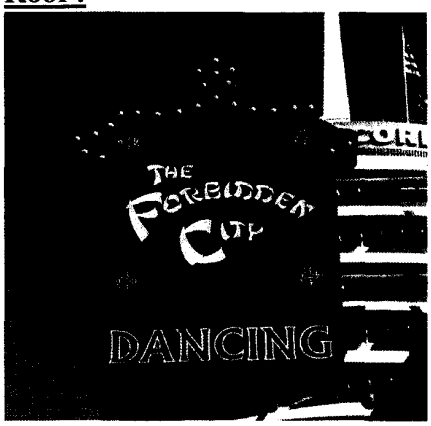


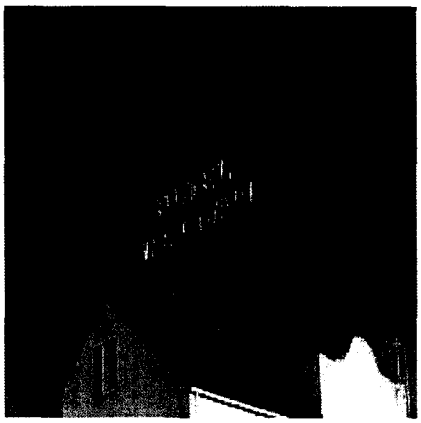
Prohibited Signs

Billboard:



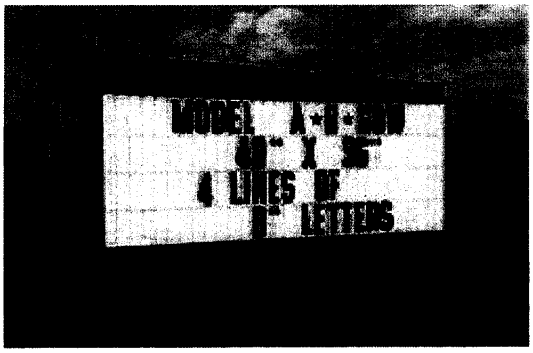
Roof :





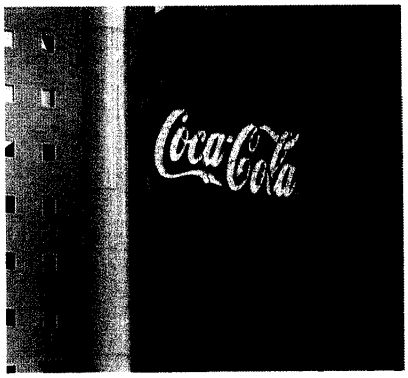
Portable:

10-14-14



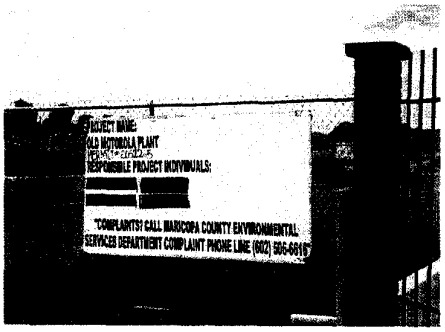
Vehicle Sign:

Flashing, Rotating, or Animated:



Illegal:

Sign Attached to a Wall, Fence, or Rock:



CHAPTER 15

DEVELOPMENT STANDARDS AND EXCEPTIONS

SECTION:

10-15-1: Development Standards
10-15-2: Exceptions And Modifications; Height

10-15-1: **DEVELOPMENT STANDARDS:** All lots, tracts, buildings, and structures in the city shall be developed in accordance with the standards below, except as otherwise provided. All development standards and other provisions of this title shall apply to each lot, tract, or parcel, independent of all other lots, tracts, or parcels.

District	Yards Min. Front Setback	Yards Min. Rear Setback	Yards Min. Side Setback	Lots Min. Area	Lots Min. Width	Lots Min. Depth	Height Max.
RE	20 ft.	15 ft.	5 ft.	6,000 sq. ft.	* 60	* 70	35 ft.
R-1	20 ft.	15 ft.	5 ft.	6,000 sq. ft.	* 60	* 70	35 ft.
TC	15 ft.	15 ft.	0 ft.	3,000 sq. ft.	* 60	-	35 ft.
MR	15 ft.	15 ft.	7.5 ft.	6,000 sq. ft.	* 60	-	35 ft.
MF	15 ft.	15 ft.	7.5 ft.	4,000 sq. ft.	* 60	-	45 ft.
PD	-	-	-	40 acre net lot area	No min.	No min.	-
C-1	15 ft.	15 ft.	5 ft.	6,000 sq. ft.	* 60	* 70	45 ft.
C-2	15 ft.	15 ft.	5 ft.	6,000 sq. ft.	* 60	* 70	45 ft.
M-1	15 ft.	15 ft.	5 ft.	6,000 sq. ft.	* 60	* 70	45 ft.
M-2	15 ft.	15 ft.	5 ft.	6,000 sq. ft.	* 60	* 70	45 ft.

* Total lot area must be equal to, or greater than, minimum area specified.

Note: All residential rear setback requirements may be encroached by an open patio (structure) with a footprint area not exceeding thirty percent (30%) of the area designated as required rear setback. Further, the remaining setback dimension may not have a linear dimension of less than ten (10) feet.

(Ord. 1999-04, 3-2-1999; amd. 2000 Code; Ord. 03-06, 8-5-2003; Ord. 2012-03, 2-10-2012)

10-15-2: **EXCEPTIONS AND MODIFICATIONS; HEIGHT:**

A. Spires, Belfries, Flag Poles, And Similar Structures: Such uses may be constructed in any district to a height ten feet (10') above the normally permitted by right.

B. Television And Radio Towers, Guy Towers And All Other Freestanding Towers (Public And Private):

1. Residential Zoning Districts:

a. Towers shall have manufacturer's specifications to withstand a seventy five (75) mile per hour wind or be set back one foot (1') for each one foot (1') of height from the property line.

b. Towers shall be constructed to meet uniform building code standards.

c. Towers shall conform to federal communication commission and federal aviation administration regulations if applicable.

d. Towers shall not exceed sixty five feet (65') in height. Any request for a tower to exceed sixty five feet (65') in height shall require a variance from the board of adjustment.

e. Tower height shall be measured from ground level vertically to the highest point of a tower for both freestanding towers and towers attached to or built upon structures.

f. Towers for commercial purposes shall not be permitted.

2. Commercial Zoning Districts:

a. Towers shall have manufacturer's specifications to withstand a seventy five (75) mile per hour wind or be set back one foot (1') for each one foot (1') of height from the property line.

b. Towers shall be constructed to meet uniform building code standards.

c. Towers in commercial zoning districts shall not exceed sixty five feet (65') in height. A special use permit may be granted to permit tower heights greater than sixty five feet (65'). The special use permit process shall be used to determine tower height greater than sixty five feet (65').

d. Tower height shall be measured from ground level vertically to the highest point of a tower for both freestanding towers and towers attached to or built upon structures.
e. Towers for commercial purposes shall not be constructed on lots adjacent to property zoned R-1 or R-2 unless approved through the special use permit process. A special use permit may be granted to permit a tower for commercial purposes adjacent to R-1 or R-2 zoned property.
f. Towers for commercial purposes shall be set back one foot (1') for each one foot (1') in height plus ten percent (10%) of the total height from a residential use.
3. Manufacturing Zoning Districts:
a. Towers should have manufacturer's specifications to withstand a seventy five (75) mile per hour wind or be setback one foot (1') for each one foot (1') of height from the property line.
b. Towers shall be constructed to meet Uniform Building Code standards.
c. Towers shall conform to Federal Communication Commission and Federal Aviation Administration regulations if applicable.
d. Towers in manufacturing zoning districts shall not exceed two hundred feet (200') in height. A special use permit may be granted to permit tower height greater than two hundred feet (200'). The special use permit process shall be used to determine tower height greater than two hundred feet (200').
e. Tower height shall be measured from ground level vertically to the highest point of the tower for both freestanding towers and towers attached to or built upon structures.
f. Towers for commercial purposes shall be set back one foot (1') for each one foot (1') in height plus ten percent (10%) of the total height from any residential zone.
g. Towers for commercial purposes shall not be constructed on lots adjacent to property zoned R-1 or R-2 unless approved through the special use permit process. A special use permit may be granted to permit a tower for commercial purposes adjacent to R-1 or R-2 zoned property.

C. Towers In Historic Districts:
1. Towers for commercial purposes shall not be permitted unless located within a commercial or industrial zone and granted a special use permit.
2. Towers shall not exceed sixty five feet (65') in height. Any request for tower to exceed sixty five feet (65') in height shall require a variance from the Board of Adjustment.
D. Television And Radio Towers, Guy Towers And Other Freestanding Towers For Special Use: Request for a special use permit, for any reason, to allow a tower in excess of sixty five feet (65') in commercial zoning districts and in excess of two hundred feet (200') in manufacturing zoning districts shall include:
1. A complete description of the commercial communication service to be provided.
2. A complete description of the commercial communication service area.
3. A technical analysis prepared by a professional engineer for the proposed site. The analysis shall contain:
a. A comprehensive statement and justification for the proposed tower location and site.
b. A communication coverage pattern calculation for the proposed tower location at sixty five feet (65') height for commercial zoning districts and two hundred feet (200') height for manufacturing zoning districts.
c. A communication coverage pattern calculation for the proposed tower at the proposed location and proposed height.
d. A communication coverage pattern calculation for the proposed tower at the proposed location and a height twenty percent (20%) lower than the proposed height.

e. Analytical evidence demonstrating that no other location or height exists to provide the commercial communication service including cellular or similar communication services. (Ord. 1999-04, 3-2-1999)

CHAPTER 16
MINING AND RECLAMATION
SECTION:

10-16-1: Purpose
10-16-2: Application
10-16-3: Definitions
10-16-4: Required Permits
10-16-5: Guidelines
10-16-6: Standards

10-16-1: PURPOSE: The purpose of this chapter is to establish reasonable and uniform limitations, safeguards and controls for mining and accessory uses which will allow for the reasonable use of an important city resource. These regulations shall also ensure that mining activities will be conducted in harmony with the environment and other uses of land within the city and that mineral sites will be appropriately reclaimed. (Ord. 03-04, 8-5-2003)

10-16-2: APPLICATION: Unless otherwise indicated herein, the purpose, intent and provisions of this chapter shall be and are automatically imposed and made a part of any permit for mining development issued by the city. (Ord. 03-04, 8-5-2003)

10-16-3: DEFINITIONS: Unless otherwise defined herein, or unless the text clearly indicates otherwise, the definition of "mining" shall be the surface or subsurface extraction of aggregate, minerals, sand or other natural resources. (Ord. 03-04, 8-5-2003)

10-16-4: REQUIRED PERMITS: No mining related use may commence without the appropriate conditional use permit required pursuant to this title. The issuance of a conditional use permit shall not relieve the operator of the responsibility of securing and complying with

any other permit which may be required by other city ordinances, or state or federal laws. No condition of a conditional use permit for uses allowed by this title shall be interpreted as permitting or requiring any violation of law, or any lawful rules or regulations or orders of an authorized governmental agency. In instances where more than one set of rules apply; the stricter one shall take precedence. (Ord. 03-04, 8-5-2003)

10-16-5: GUIDELINES: The general guidelines that follow shall be used in the development of conditions, which will help ensure that mining projects generate minimal negative impacts on the environment. The guidelines shall be applied unless the strict application of a particular guideline(s) would otherwise defeat the intent of other guidelines. An applicant should use the guidelines in the design of the project and anticipate their use as permit conditions.

A. All mining and reclamation shall be consistent with the city master plan.

B. Mining and accessory uses of less than nine (9) months in duration are not renewable nor are such uses allowed to continue operating for any reason beyond nine (9) months after issuance of the permit.

C. No provisions in this title or in the city master plan shall be construed to encourage any mining operation or facility which would endanger the public's health, safety or welfare, which would endanger private or public facilities or which would prohibit the alleviation of a hazard by hampering or precluding such activities as the maintenance, restoration or construction of public works facilities.

D. In general, projects shall be located, designed and operated so as to minimize their adverse impact on the physical and social environment, including natural resources. To this end, dust, noise, vibration, noxious odors, intrusive light, aesthetic impacts, traffic impacts and other factors of nuisance and annoyance, erosion and flooding shall be reduced to a minimum or eliminated through the best accepted mining and reclamation practices, applicable to local conditions, which are consistent with contemporary principles and knowledge of resource management, flood control engineering and floodplain management.

E. The extraction of aggregate, mineral, sand, and other natural resources shall strike a reasonable balance with other resource priorities such as water, agricultural land, fish and wildlife and their

habitat, sediment for replenishment and the protection of public and private structures and facilities.

F. The extraction of aggregate, mineral, sand, and other natural resources in rivers and streams shall allow for the ongoing maintenance of viable riparian ecology by preserving as many natural stream elements as practical. Mining operations may provide for the enhancement of some riparian ecosystems as a mitigation to compensate for significant adverse environmental effects on other riparian ecosystems, thereby preserving the overall quality of the riparian environment.

G. Appropriate and reasonable monitoring and enforcement measures shall be imposed on each mining operation, which will ensure that all permit conditions, guidelines and standards of this chapter are fulfilled.

H. Reclamation of a site shall include the removal of equipment and facilities and the restoration of the site so that it is suitable for subsequent uses which are consistent with the plans for the area as well as the existing and proposed uses in the general area. Reclamation shall be conducted in phases on an ongoing basis, where feasible.

I. The department of community development shall use the following procedure in reviewing the application for a permit:

1. Upon receipt of the application, the department shall stamp the application as received.

2. The department shall have thirty (30) days in which to find the application complete or incomplete.

3. If the application is found to be complete:

a. The applicant shall be notified in writing.

b. The department shall schedule a duly noticed public hearing before the planning and zoning commission for review of the conditional use permit and environmental documents.

4. If the application is found to be incomplete:

a. The applicant will be notified in writing no less than fifteen (15) days from the finding of incompleteness.

b. The written notification shall contain the reasons for the finding of incompleteness.

c. The applicant may then resubmit the application once he/she has complied with the items found lacking in the original application.

d. The department shall then review the second submittal for completeness within the same parameters used in the first review.

e. The department shall be constrained to review only those items that were cited in the incompleteness letter unless it can justify why it must expand its review to other issues.

5. An application shall only be considered as filed once an application is found to be

complete. This is an important distinction since the applicant shall not gain any vested rights until the letter of completeness is written by the department. The department shall use the following (but not limited to) criteria in its review for completeness:

a. The department may not find an application complete until such time as a full environmental assessment has been performed up to and including an environmental impact statement.

b. The applicant must provide all information required on the application form.

c. The applicant must comply with all requirements of this chapter.

d. The applicant must meet all the requirements of this code including, but not limited to, titles 3, 7, 8, 9, 10, 11 and 12 of this code.

e. A finding of incompleteness shall be rendered if the department has rational for not being able to complete the review in the allotted time period.

f. The planning and zoning commission shall review the application and make comments which shall be incorporated into the review process by the department. (Ord. 03-04, 8-5-2003)

10-16-6: STANDARDS: The following are minimum standards and requirements which shall be applied pursuant to subsection B of this section:

A. General Mining Standards: Projects shall be located, designed, operated and notice of their activities provided so as to minimize their adverse impact on the physical and social environment and natural resources. To this end, dust, noise, vibration, noxious odors, intrusive light, aesthetics, traffic impacts and other factors of nuisance and annoyance, erosion and flooding shall be reduced to a minimum or eliminated through the best accepted practices which are applicable to local conditions and incident to the exploration for and extraction of aggregate, mineral, sand, and other natural resources. In addition, mitigation measures should be consistent with contemporary principles and knowledge of resource management, flood control engineering and floodplain management. Further, posting of signs and notification to neighboring property owners of the project's activities shall be required where necessary.

B. Setbacks: No processing equipment or facilities shall be permanently located and no mining shall occur within the horizontal setbacks specified below:

1. One hundred feet (100') of any dedicated public street or highway unless the community development department determines a lesser distance would be acceptable;

2. One hundred feet (100') of any dwelling not accessory to the project;

3. Two hundred feet (200') of any institution, school or other building used as a place of public assemblage. Other facilities and structures shall be set back distances which are applicable for accessory structures for the zone in which the use is located.

C. Obstruction Of Drainage Courses: Mining operations, access roads, facilities, stockpiling of mineral resources and related mining activities shall be consistent with current engineering and public works standards and in no case shall obstruct, divert, or otherwise affect the flow of natural drainage and floodwaters so as to cause significant adverse impacts, except as authorized by the public works agency.

D. Control Of Contaminants, Runoff And Siltation: Contaminants, water runoff and siltation shall be controlled and generally contained on the project site so as to minimize adverse off site impacts.

E. Dust Prevention: The project site and all roads or hauling routes located between the public right of way and the subject site shall be improved or otherwise

treated as required by the city and maintained as necessary to prevent the emanation of dust.

F. Light Emanation: Light emanation shall be controlled so as not to produce excessive levels of glare or abnormal light levels directed at any neighboring uses.

G. Painting: All permanent facilities and structures on the site shall be colored so as to mask facilities visible from surrounding uses and roadways in the area. Said colors shall also take into account such additional factors as heat buildup and designation of danger areas. Said colors shall be approved by the director of community development prior to painting of facilities.

H. Site Maintenance: The permit area shall be maintained in a neat and orderly manner so as not to create unsightly conditions visible from outside the permitted area or any hazardous conditions. Equipment and materials may be stored on the site which are appurtenant to the operation and maintenance of mining operations.

I. Reclamation Plan: The purpose and intent of a reclamation plan shall be to return the property to its original natural state. If such a goal cannot be met due to physical constraints (not monetary) then the applicant shall strive to create a reuse plan that will be of benefit to the community. No mining permit shall be approved without an approved reclamation plan which is:

1. Consistent with city engineering standards;

2. Consistent with any and all locally adopted resource management goals and policies;

3. Compatible with the existing geological and topographical features of the area, and that considers the following criteria in its design:

a. The creation of safe, stable slopes and the prevention of subsidence;

b. Control of water runoff and erosion;

c. Protection or enhancement of views of the site from surrounding areas;

d. Availability of backfill material;

e. Proposed subsequent use of the land which will be consistent with the general plan and existing and proposed uses in the general area;

f. Removal or reuse of all structures and equipment;

g. The time frame for completing the reclamation;

h. Provisions of appropriate securities to ensure completion of approved reclamation plans if the city will need to contract to have the work performed;

i. Revegetation of the site;

j. Phased reclamation of the project area;

k. Removal of equipment. All equipment on the project site shall be removed from the site within one hundred eighty (180) days of the termination of the use, unless a time extension is approved by the director of community development.

J. Application Of Sensitive Use Related Standards: The imposition of regulations on mining operations, which are based on distances from occupied sensitive uses, shall only apply to those occupied sensitive uses which were in existence at the time the permit for the subject mining operations was approved. The provisions of this section shall continue for the life of the permitted mining operations at the subject site.

K. Reporting Of Accidents: The permittee shall immediately notify the director of community development of any incidents such as fires, explosions, spills, land or slope failures or other conditions at the permit site which could pose a hazard to life or property outside the permit area. Upon request of any city agency, the permittee shall provide a written report of any incident within seven (7) calendar days which shall include, but not be limited to, a description of the facts of the incident, the corrective measures used and the steps taken to prevent recurrence of the incident.

L. Contact Person: The permittee shall provide the director of community development with the current name(s) and/or position title, address and phone number of the person who shall receive all orders, notices and communications regarding matters of condition and code compliance. The person(s) in question shall be available by phone during the hours that activities occur on the permit site, even if this means twenty four (24) hours a day.

M. Current Mining Plans: For mining projects located in sensitive areas which operate under regularly changing environmental conditions (e.g., in river mining), a mining plan shall be prepared by the permittee on a regular basis in accordance with the applicable conditions of a project's permit. Said plan shall describe how mining over the next interval will be conducted in accordance with the intent and provisions of the project's use permit. The plan shall be reviewed and approved by the city at the permittee's expense. The review and approval of current mining plans shall not be used in lieu of the formal modification process to change the text and drawings of the permit conditions.

N. Permit Review: Monitoring of the permit or aspects of it may be required as often as necessary to ensure compliance with the permit conditions. In any case, the permit and site shall be reviewed and inspected by the community development department at least once every three (3) years. The purpose of said review is to ascertain whether the permittee is in compliance with all conditions of the permit, and whether there have been significant changes in environmental conditions, land use or mining technology, or if there is other good cause which would warrant the director of community development's filing of an application for modification of the conditions of the permit. If such an application is filed, it shall be at the city's expense and modification of conditions would not occur without a duly noticed public hearing.

0. Enforcement Costs: Permit conditions shall be imposed which will enable the city to recover the reasonable and appropriate costs necessary for the reviewing and monitoring of permit operations and the enforcing of the applicable requirements of the zoning ordinance and the conditions of this permit.

P. Civil Penalties:

1. In case of any failure by the permittee to perform or comply with any term or provision of the condition use permit, the final decision making authority that would act on the permit may, after notice to the

permittee and a public hearing, determine by resolution the amount of the civil penalty to be levied against the permittee. Said penalty shall be paid within thirty (30) days unless the penalty is under appeal. Failure to pay the penalty within the allotted time period shall be considered grounds for suspension of the subject use.

2. The maximum penalty that can be levied against a permittee per incident at any given time shall be in accordance with the amounts set forth below. The amounts for a given permit may be increased to adjust for inflation pursuant to the conditions of the subject permit.

Total Permitted Extraction (Life Of The Project)	Applicable Civil Penalty Ceiling
Less than 10,000 cubic yards	$10,000.00
10,000 to 99,999 cubic yards	15,000.00
100,000 to 999,999 cubic yards	25,000.00
1,000,000 plus cubic yards	50,000.00

Q. Performance Securities: Performance bonds or other securities shall be imposed on any permit to ensure compliance with certain specific tasks or aspects of the permit. The amount of the security shall be based upon the actual anticipated costs for completing the subject task if the city were forced to complete it rather than the permittee.

R. Insurance: The permittee shall maintain, for the life of the permit, liability insurance of not less than five hundred thousand dollars ($500,000.00) for one person and one million dollars ($1,000,000.00) for all persons, and two million dollars ($2,000,000.00) for property damage. This requirement does not preclude the permittee from being self-insured. (Ord. 03-04, 8-5-2003)

CHAPTER 17

RESIDENTIAL/COMMERCIAL PLANNED UNIT DEVELOPMENT DISTRICT ("RCPUD")

SECTION:

10-17-1: Purpose
10-17-2: Permissive Uses and Limitations
10-17-3: Special Use Permit
10-17-4: Uses Permitted Without RCPUD Permit

10-17-1: **PURPOSE:** The purpose of this zone is to provide for residential and/or commercial uses in a planned, mixed use development. Industrial uses are not allowed under this designation. The ideal development under this RCPUD will be friendly to the environment by use of modern planning, architectural and engineering techniques meant to reduce air, water, ground and scenic contamination. The use of pedestrian friendly development is also encouraged and will be a standard used by the planning and zoning commission and the city council in reviewing the proposed projects. It is also the intent and purpose of this designation that through the use of a special use permit all adjacent property owners and citizens will participate in the planning process through public meetings. Further, it is the expressed intent that development take place in an orderly manner that includes the existing or potential uses of surrounding properties and all property under the proponent's control. In order to provide maximum flexibility in design and quality of development, the city council may agree to proposed modifications in the requirements of title 10 and title 11 of this code. (Ord. 2006-07, 5-16-2006)

10-17-2: **PERMISSIVE USES AND LIMITATIONS:** Standards for residential/ commercial planned unit development (RCPUD) zone.

A. Permit: The city council may grant (upon recommendation from the planning and zoning commission) an RCPUD permit for such land in the RCPUD zone which it finds meets the requirements of this chapter. For purposes of this chapter, an RCPUD permit shall be one and the same as a special use permit ("SUP") as issued under chapter 10 of this title, however, with the additional requirements set out in this chapter. The city council may impose such additional conditions and requirements upon an RCPUD permit as it finds are reasonable and necessary to carry out the purposes and requirements of this chapter.

B. General Requirements: The general requirements for the RCPUD zone are as follows:

1. Application: An application for an RCPUD permit may be filed by the owner of the property or his/her authorized agent. Such application requests shall be filed with the community development department. No application request shall be accepted for filing and processing unless it conforms to the requirements of this title, and the public hearing notice procedures set forth in chapter 10 of this title for special use permits. The requested average number of units per acre shall not exceed four (4) per gross acre, and must be consistent with the master plan land use designation. The city council may allow density averaging in order to maximize the amount of open space provided. An increase in density to not more than eight (8) units to the gross acre may be approved if the development proposes a large amount (1 acre per 20 residential units minimum) of passive or active open space.

2. Content Of Applications:

a. The content of the RCPUD permit application shall be accompanied by the prescribed number of copies of a project plan and such other detailed elevations, plans and other information as may be required to adequately evaluate the proposed development. For a commercial and/or residential subdivision project requiring an RCPUD permit, a plat map application shall not be complete until an application is also filed and determined complete for an RCPUD permit consistent with the requirements of this chapter and the provisions of this title.

b. The following information is required for submittal for an application for an RCPUD permit under this chapter which shall be in addition to that required in chapter 10 of this title for special use permits. The information is to be supplied in a booklet form (and in digital form) that may later be used by the city as an addendum to city regulations related to land use and building permit issuance. The project plans shall include the following information:

(1) A map showing division of the land for the sale of the individual property, if any;

(2) Existing contours at two (2) foot intervals if the existing ground slope is less than ten percent (10%) and not less than five foot (5') intervals for existing ground slopes greater than or equal to ten percent (10%). Contour intervals shall not be spread more than one hundred fifty (150) feet apart and existing contours shall be represented by dashed lines or by screened lines;

(3) Location of all living trees having a trunk diameter of four inches (4") or more measured at four and one-half feet (4-1/2') above the root crown, and other major natural features shall be shown;

(4) Proposed automobile and bicycle access and pedestrian way locations and dimensions. Proposed off-street parking, including the location, number of stalls, dimensions and circulation system;

(5) Proposed loading areas, including the location, dimensions, and number of berths;

(6) Lot dimensions and all recorded easements;

(7) Areas proposed to be dedicated or reserved for parks, parkways, playgrounds, school sites, public or quasi-public buildings and other uses;

(8) Areas proposed for commercial uses, multi- and single-family dwellings, or other uses proposed to be established within the project;

(9) Proposed location and elevations of buildings on land including dimensions, the size of the structure, height, setback, materials and yard areas;

(10) All proposed signs and their locations, size and height;

(11) Proposed landscaping walls, fencing, screening, trash collection areas, and usable open space areas;

(12) Location and size of existing and all proposed utility lines and drainage;

(13) A schedule for the development if phasing is proposed;

(14) Tabulation of total number of acres in the proposed project and the percent thereof designated for various uses; and the number of dwelling units proposed by type of dwelling for each unit of development;

(15) Construction materials and colors;

(16) Such additional information as may be required by the director of the community development department, to clarify, amplify, correct, or otherwise supplement the information required for the application, and to comply with the provisions of titles 10 and 11 of this code. The director may waive or modify the RCPUD permit application requirements, listed above, if such items are found not to be applicable to the proposed development;

(17) If the applicant disagrees with the application requirements enumerated herein and as determined by the director of the community development department, he/she may appeal the director's decision to the planning and zoning commission within sixteen (16) days of the director's decision and before the application has been determined complete. The cost of the appeal shall be as established by city council resolution.

3. Development Standards: Development standards, including but not limited to building height, minimum lot size, and setbacks for the respective

residential or commercial zones, shall be consistent with the standards and requirements set forth in title 10 and title 11 of this code, unless modified by the city council.

a. RCPUD Zone Setback Regulations: The following regulations shall apply to the RCPUD zone unless modified by the city council. (Setbacks for structures and uses not listed below shall be consistent with setback requirements of title 10 of this code as determined by the director of the community development department to be comparable or equivalent to said structures and uses. If no such comparable or equivalent can be found, then as reasonably determined by the director.)

b. Setbacks For Single-Family Residential Projects:

(1) Front setback: overall average of twenty feet (20') is required for tract with a minimum setback of twenty feet (20'). The front setbacks of dwelling units shall be varied so as to provide visual variety.

(2) Minimum side setback from any public street: ten feet (10').

(3) Minimum side setback on an interior lot: five feet (5').

(4) Sum of side yards on any lot: minimum of ten feet (10').

(5) Minimum distance between structures that are separated by a side lot line and do not share a common wall: twelve feet (12') for single story; fifteen feet (15') for two (2) stories.

(6) Minimum setback from a rear lot line: twenty feet (20') for a house, ten feet (10') for an enclosed patio, ten feet (10') for an open patio cover or balcony, and five feet (5') for an accessory structure.

(7) Two (2) story residences with windows facing the adjacent property shall have a minimum ten foot (10') side yard setback (second story only) and a minimum twenty foot (20') rear yard setback from the adjacent property line,

c. Setbacks For Multi-family Residential Development Projects:

(1) Minimum landscaped setback of twenty feet (20') with an average landscaped setback of twenty-four feet (24') from any primary or secondary arterial street and twenty feet (20') from any collector, minor or cul-de-sac street.

(2) Minimum interior yard side setback: ten feet (10').

(3) Minimum rear setback: as determined by the RCPUD Permit.

(4) In the case of RCPUD subdivisions involving townhouse developments, the setbacks shall be measured from the exterior property lines surrounding the project.

4. Height Requirements: The following regulations shall apply to the RCPUD zone unless modified by the city council or planning and zoning commission:

a. The maximum height of a single-family residence may be increased above twenty-five feet (25'), to a maximum of thirty-five feet (35'), if the side yard setback is at least fifteen feet (15').

b. The maximum height for a multi-family residential structure shall be thirty-five feet (35').

c. For single-family and multi-family residential structures, no more than three (3) stories shall be permitted.

d. The maximum height of accessory structures shall be fifteen feet (15'), with the exception that the maximum height of a patio cover shall be twelve feet (12').

5. Minimum Lot Area: Shall be as specified by the RCPUD permit.

6. Parking Requirements: Parking shall be provided as required in chapter 13 of this title.

7. Utilities: All utilities shall be located underground.

8. Findings: An RCPUD permit may only be granted if all of the following findings can be made based on factual evidence and testimony presented at the public hearing:

a. Finding that the planned development is consistent with the intent and provisions of the city's master plan, zoning code and any applicable specific plan;

b. Finding that the planned development is compatible with the character of surrounding development;

c. Finding that the planned development would not be obnoxious or harmful, or impair the utility of the neighboring property or uses;

d. Finding that the planned development would not be detrimental to the public interest, health, safety, convenience or welfare; and,

e. Finding that the planned development has met or exceeded the requirements and recommendations of the "purpose" of this zone designation. (Ord. 2006-07, 5-16-2006)

10-17-3: **SPECIAL USE PERMIT:** The requirements of title 10 of this code, for granting a special use permit, shall be followed for purposes of seeking an RCPUD permit. The requirements set forth in this chapter shall be in addition to and not in lieu of the requirements for a special use permit found in chapter 10 of this title. (Ord. 2006-07, 5-16-2006)

10-17-4: **USES PERMITTED WITHOUT AN RCPUD PERMIT:** Those uses allowed in the RE-1 zone are permitted by right if the property owner does not wish to proceed with the application for an RCPUD permit. (Ord. 2006-07, 5-16-2006)

CHAPTER 18

WIRELESS TELECOMMUNICATIONS FACILITIES

SECTION:

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10-18-1: **SHORT TITLE:** This chapter may be cited as the "Wireless Telecommunications Facilities Ordinance of the city of Sunland Park". (Ord. 2005-07, 10-4-2005)

10-18-2: **AUTHORITY AND PURPOSE:**

A. Authority: This chapter is adopted pursuant to the enabling provisions of Section 3-17-1 and Section 3-21-1 through 3-21-14, NMSA, 1978, as amended.

B. Purpose: The purpose of this chapter is to establish regulations and general guidelines for the siting of wireless telecommunications facilities ("WTFs").

C. The goals of this chapter are to:

1. Protect residential areas and land uses from potential adverse impact of WTFs;

2. Minimize the total number of towers in the community;

3. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;

4. Encourage users of WTFs to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;

5. Encourage users of WTFs to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening and innovative camouflaging techniques;

6. Enhance the ability of providers of telecommunications services to provide such services to the community quickly, effectively and efficiently;

7. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

D. In furtherance of these goals and in approving sites for the location of towers and antennas, the city shall give due consideration to city's master plan, its zoning map, existing land uses and environmentally and historically sensitive areas. (Ord. 2005-07, 10-4-2005)

10-18-3: **DEFINITIONS:**

ALTERNATIVE TOWER STRUCTURE:	Such structures as man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.
ANTENNA:	Any structure that radiates or receives radio or other communication signals.
CO-LOCATION:	The physical attachment and/or placement of one (1) communication structure upon another communication structure, and may include placing different or similar communication structures on the receiving structure.
COMMERCIAL TOWER:	A freestanding vertical structure that may or may not have various attachments thereto, which is intended to radiate and/or receive radio frequency signals for the purpose of providing a commercial service to the public. Commercial tower uses include, but are not limited to, cellular communications, paging stations, TV stations, AM and FM radio stations, two-way radio base stations,

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	communication mobile service, common carrier wireless services and communications used for intra-business and inter-business purposes.
COMMUNICATION STRUCTURES:	Any structure, including antennas and satellite service devices, or any other device which is normally used for radio, television, microwave or wireless communications. This shall include any device that is attached to a new or an existing tower, or attached to a building facade or roof or other non-communication structure, and such attachment is made to the facade or roof vertically, horizontally and/or diagonally.
FACIAL MOUNT:	The physical attachment of a communication structure to a building or other non-communication structure, which does not substantially increase the height of the building or structure. This can include attaching the structure either vertically, horizontally, or diagonally along the structure's building facade, facades, walls, roofs or other surfaces.
HEIGHT:	When referring to a tower or other structure, "height" means the distance measured from the lowest adjacent ground level of the parcel of land vertically to the highest point on the tower or other structure, including the base pad and any antenna and whether attached to the ground, the building, or other structure(s).
HISTORIC RESOURCES OR DISTRICTS:	For the purposes of this chapter, a resource or district is considered historic if it is listed individually or collectively or eligible to be listed in the National Historic Landmark Register, the National Register of Historic Places or the State Register of Cultural Properties or if the resource or district has been identified by a governmental agency, such as the New Mexico Historic Preservation Division, as having significant value as an historic, cultural or archaeological resource.
PERSONAL (PRIVATE) TOWER:	A freestanding vertical structure that may or may not have various attachments thereto, which is intended to radiate and/or receive radio frequency signals for the purpose of radio communications without the intent of commercial service. Personal tower uses

include, but are not limited to television signal reception, amateur radio stations, AM and FM radio signal reception and citizen band (CB) base stations.

P&Z: The planning and zoning commission, the body that shall review applications for WTFs and recommend action to the city council, which is the governing body of the city.

SATELLITE SERVICE DEVICE (SSD): Any structure used to receive satellite programming services specifically associated with television reception from the transmission of signals from a satellite to a receiver, usually a round "dish" that can vary in size from eighteen inches (18") to ten feet (10') in diameter.

TOWER: Any structure, vertical in inclination, that is designed and constructed and normally used for the purpose of supporting one (1) or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. This may include television and radio transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and other free-standing towers, either for private or commercial purposes. The term includes the structure and any support thereto.

VERTICAL STRUCTURE: Any built object that is either independent of or attached to any building or other structure that is perpendicular in its direction to the nearest adjacent ground, including but not limited to spires, flag poles, belfries, steeples, chimneys and parapet walls.

VIEW CORRIDORS: An area identified either in the city's master plan or by a federal or state agency as the location of a particular designated scenic or cultural resource or trail system and as an area from which a WTF can be seen.

WIRELESS TELECOMMUNICATIONS FACILITY (WTF): A WTF includes all equipment, buildings and structures with which a wireless communications service carrier broadcasts and receives the radio frequency waves and all locations of said

equipment or any part thereof, including, but not limited to, commercial towers, communication structures, and towers. (Ord. 2005-07, 10-4-2005)

10-18-4: **APPLICABILITY AND EXEMPTIONS:**

A. WTFs: All new towers or antennas in the city shall be subject to these regulations, except as provided in subsections 4C. and 4D. below.

B. Amateur Radio Station Operators/Receive Only Antennas: The sections that follow shall not govern television antennas, satellite dishes and receive only antennas, provided that the primary use of the property is not a wireless telecommunications facility (WTF) and that the antenna use is accessory to the primary use of the property. Nor shall the sections that follow govern any freestanding vertical structure or the installation of any freestanding vertical structure located in any residential zone that is under forty feet (40') in height.

C. Preexisting WTFs: Preexisting WTFs for which a building permit has been properly issued prior to the effective date of this chapter shall not be required to meet the requirements of this chapter, other than the requirements of section 10-18-5 G. and H. of this chapter.

D. Public property owned or otherwise controlled by the city shall be exempt from the requirements of this chapter.

E. WTFs shall be regulated and permitted pursuant to this chapter and shall not be regulated or permitted as essential services, public utilities, or private utilities. (Ord. 2005-07, 10-4-2005)

10-18-5: **GENERAL STANDARDS AND CONSTRUCTION PROVISIONS:**

A. Height: All structure heights shall be measured from the lowest adjacent ground level vertically to the highest point of all structures, whether attached to the ground, the building or other structure(s). The principal supporting structure for WTFs shall be permitted to exceed the height limit of the zoning district in which it is located, provided that the setback standards in section 10-18-7 of this chapter shall apply.

B. Lot Size: For the purposes of determining whether the installation of a WTF complies with zoning development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the WTF may be located on leased parcels within such lot.

C. Measurement: For purposes of measurement, WTF setbacks and separation distances shall be calculated and applied to facilities located in the city irrespective of municipal and county jurisdictional boundaries.

D. Public Notice: For purposes of this chapter, a special use permit request, a variance request or an appeal of a special use permit or variance shall require public notice in a local newspaper of general circulation within the city. In order that the city may notify nearby landowners, the application shall contain the names and addresses of all property owners of properties that are located within fifteen hundred feet (1,500') of any property line of the lot or parcel on which the WTF is proposed to be located. This requirement is in addition to any and all notice requirements contained in the city's zoning regulations for the zoning district in which such structure may be permitted.

E. Minimum Wind Speed: All structures shall be constructed and installed to manufacture's specification and constructed to withstand a minimum ninety (90) mile per hour wind, or the minimum wind speed as required by the city's building code, as amended, whichever wind speed is greater.

F. Building Codes: Structures shall be permitted and constructed to meet current city building code requirements and required setback provisions as prescribed for the zoning districts in which such structures may be permitted. If any setback or buffer yard as prescribed in the city's zoning regulations for the zoning district in which such structure may be permitted requires a greater distance than required in this chapter, the greater setback shall apply.

G. Safety Standards: To ensure the structural integrity of WTFs, the owner of a WTF shall ensure that it is maintained in compliance with the standards contained in applicable federal, state and city building codes. If, upon inspection, the city concludes that a WTF fails to comply with such codes and constitutes a danger to persons or property, then upon notice being provided to the owner of the WTF, the owner shall have thirty (30) days to bring such WTF into compliance with such standards. Failure to do so shall constitute grounds for the removal of the WTF at the owner's expense.

H. State Or Federal Requirements: All WTFs shall meet or exceed current standards and regulations of the Federal Communication Commission (FCC), the Federal Aviation Administration (FAA) and any other agency of the state or federal government with the authority to regulate WTFs. If such standards and regulations are changed, then the owners of the WTFs governed by this chapter shall bring such WTFs into compliance with such revised standards and regulations within six (6) months of the effective date of the revisions, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring WTFs into compliance with such revised standards and regulations shall constitute grounds for the removal of the WTF at the owner's expense.

I. Business Registration Required: Business registrations are required for each WTF for commercial purposes located within the city limits, regardless of whether said structure is freestanding, collocated, facial or roof mounted, or part of an integrated structure or improvement. Business registrations are renewable annually.

J. Inventory Of Existing Sites: Each applicant for a WTF shall provide to the P&Z an inventory of WTFs or sites approved for WTFs that are located within the service area proposed to be served by the new WTF, including specific information about the location, height and design, and the owners/operators of each WTF or site and indicate the distance of such WTF or sites from the proposed WTF.

K. Aesthetics: WTFs shall meet the following aesthetic requirements:

1. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

2. The design of the buildings and related structures at a WTF site shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and any surrounding buildings.

3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

4. All electrical lines and other data cables shall be located inside the tower in order to reduce the impact of unsightly wiring.

5. Guy wires shall not be used under any circumstances.

L. Lighting: Only security lighting not to exceed twelve feet (12') in height or lighting required by a state and/or federal agency is allowed, provided the location of the lighting fixture together with its cut-off angle shall be such that it does not shine directly on any public right-of-way, any residential premises, or release any lighting in an upward direction.

M. Signs: No signs shall be allowed on a WTF other than signage required by the FCC or other regulatory agency and signs that warn of safety hazards or prohibit access, provided that such signs are no larger than one (1) square foot and are reviewed by city staff and approved by the P&Z.

N. Building And Support Equipment: Buildings and support equipment associated with WTFs shall comply fully with the city's building codes.

O. Health Issues: Every WTF shall meet health and safety standards for electromagnetic field emissions as established by the Federal Communications Commission or any successor thereof, and any other federal or state agency.

P. View Corridors: No WTF is allowed within two thousand six hundred forty feet (2,640' or 1/2 mile) of the outer edge of the right-of-way of any city designated view corridor.

Q. Preservation Districts: No WTF is allowed within two thousand six hundred forty feet (2,640' or 1/2 mile) of the outer edge of property zoned Preservation District (PD).

R. Historic Preservation Review: No WTF that may affect archaeological, historic or cultural properties that are listed or are eligible for listing on the National Register of Historic Places shall be constructed, installed or modified without first obtaining Historic Preservation Division 106 Review as per 36 CFR part 800 in accordance with the National Historic Preservation Act of 1966, as amended. A project comment review letter from the State of New Mexico Historic Preservation Division, Office of Cultural Affairs shall be filed with the city at the time of filing a business registration application and/or special use permit application.

S. Visual Models: Visual models shall be required of all applicants for a WTF as follows:

1. Photographic Simulation: The applicant shall be required to provide a photographic simulation with the image of a tower or other proposed communications structure and all structures associated with the site superimposed over the existing view to provide a sense of the visual impact expected from the proposed WTF.

2. Site-located Height Model Or Balloon Test: A height model, which shall be a pole or other object erected or floated at the site to the requested height of the proposed WTF, may be required as a condition of the special use permit. If required, the following conditions shall apply:

a. The applicant shall submit photographs of the height model or balloon test from neighboring residential areas and public roadways and other locations around the city as specified by the P&Z within three (3) miles from which the height model or balloon is visible. The height model or balloon shall be a minimum of three (3) feet in diameter.

b. Photographs of the height model or balloon test shall be submitted no less than ten (10) days prior to the scheduled public hearing date for the special use permit.

c. Height models or balloon tests shall be erected for a minimum of three (3) days no less than fifteen (15) days prior to the scheduled public hearing date for the special use permit. The legal notice for the special use permit shall state the dates and location during which the height model or balloon test will be erected.

d. The P&Z may require this test if it is determined that the photographic simulation is not adequate to address any and all visual impact issues.

e. City staff shall issue administratively any permit necessary for a temporary height model required for staff and public inspection purposes.

T. All utilities at a WTF site shall be installed underground and in compliance with all laws, ordinances, rules and regulations of the city and the city building codes.

U. All applicants for a WTF or any modification to an existing WTF should develop their plans to allow reasonable requests from the city to use space on its towers and space within the existing or planned compound for deploying and operating public service radio facilities at no cost to the city. Provisions for adequate advance notice regarding city access to the WTF for routine activities will be arranged with the applicant. (Ord. 2005-07, 10-4-2005)

10-18-6: **CO-LOCATION:** To minimize adverse visual impacts associated with the proliferation and clustering of WTFs, co-location or shared use of WTFs by more than one (1) carrier on existing WTFs shall take precedence over the construction of new WTFs, provided such co-location is accomplished in a manner consistent with the following:

A. The WTF complies with all applicable FCC and FAA regulations.

B. A WTF which is modified or reconstructed to accommodate the co-location of an additional antenna shall be of the same tower type as the existing tower, unless the P&Z allows reconstruction as a monopole.

C. Height: An existing WTF may be modified or rebuilt to a taller height not to exceed thirty feet (30') over the WTF's existing height, to accommodate the co-location of an additional antenna. This height change may occur only one (1) time per WTF and the additional height cannot require an additional distance separation as set forth in section 10-18-8D. The WTF's pre-modification height shall be used to calculate such distance separations.

D. Onsite Location: A WTF which is being rebuilt to accommodate the co-location of an additional antenna may be moved onsite within fifty feet (50') of its existing location. If the WTF is moved to accommodate co-location, only one (1) WTF may remain on the site. A relocated onsite WTF shall continue to be measured from the original WTF location for purposes of calculating separation distances between WTFs pursuant to section 10-18-8D. (Ord. 2005-07, 10-4-2005)

10-18-7: **HEIGHTS, PLACEMENT PROVISIONS AND SETBACKS:**

A. Heights:

Zone	WTF
PD	Expressly prohibited

WTFs are also expressly prohibited within two thousand six hundred forty feet (2,640' or 1/2 mile) of the boundary of an historic resource or district, view corridor, or property zoned PD.

Residential Zones	Up to 40 feet For non-commercial use only.
Commercial Zones	Up to 65 feet for a single user. Up to 75 feet for three users. Up to 100 feet for four or more users.
Industrial Zones	Up to 65 feet for a single user. Up to 75 feet for three users. Up to 100 feet for four or more users.

The applicant shall submit documentation justifying the total height of any WTF and the basis therefore. Such documentation will be analyzed, to the extent practicable, in the context of the justification of the height needed to provide service primarily and essentially within the city boundaries and the immediately surrounding area, to the extent practicable.

B. The following placement and setback requirements shall apply to all WTFs under forty-five feet (45') in height for which a special use permit is not required:

1. WTFs and satellite service devices in the residential zones, shall be placed within the primary buildable area for the lot's zone and must be to the side and/or rear of any and all residential dwelling structures, including houses, apartments, duplexes, etc.

2. WTF shall be setback from any adjoining property line one foot (1') for each one foot (1') in height plus ten percent (10%) of the total height of the structure.

3. Additional set-backs may be required in both this Section and in the following Section to meet the distance equal to at least the potential fall radius of a support structure as certified by a licensed New Mexico Professional Engineer or to preserve the privacy and integrity of adjoining residential, public or historic properties.

4. Guy wires used to secure and steady a tower and accessory buildings shall conform to the minimum setback requirements for the lot's zone.

C. The following placement and setback requirements shall apply to all WTFs for which a special use permit is required:

1. WTFs for which a special use permit is required shall be placed within the primary buildable area for the lot's zone and must be to the side and/or rear of the primary building structure. If the WTF is the primary structure, then such structure shall be within the primary buildable area, including all equipment buildings.

2. WTFs located or proposed to be located in or adjacent to a district which permits residential use, or where a residential structure is located, shall be set back from the nearest residential use or residential structure as follows:

a. Up to seventy-five feet (75'), the setback is one-half feet (1.5') for each foot of height, plus twenty percent (20%) of the total height of the structure;

b. From seventy-six feet (76') to one hundred twenty-five feet (125'), the setback is two and one-half feet (2.5') for each foot of height;

c. From one hundred twenty-six feet (126') to one hundred fifty feet (150'), the setback is three and one-half feet (3.5') for each foot of height.

3. A special use permit shall be required for WTFs proposed to be constructed on lots adjacent to property zoned residential. (Ord. 2005-07, 10-4-2005)

10-18-8: **SPECIAL USE PERMITS:**

A. General: The following provisions shall govern the issuance of special use permits for the siting of a WTF, including but not limited to the construction of a tower and the placement of an antenna, by the P&Z.

1. Applications for special use permits under this Section shall be subject to the procedures and requirements of sections 10-10-1 through 10-10-6 of this code.

2. The P&Z in granting a special use permit, may impose conditions and limitations to the extent the P&Z concludes such conditions and limitations are necessary to minimize any adverse effect of the proposed WTF on adjoining properties.

3. Any engineering information submitted by the applicant, whether civil, mechanical, or electrical, shall be certified by a professional engineer licensed in the state.

4. An applicant for a special use permit shall submit the information described below in this section and a non-refundable filing fee as established by city council resolution, as amended from time to time.

B. WTFs; Information Required: In addition to any information required for applications for special use permits pursuant to sections 10-10-1 through 10-10-6 of this code, applicants for a special use permit for a WTF shall submit the following information:

1. A scaled site plan clearly indicating the location, type and height of the proposed tower; on-site land uses and zoning, adjacent land uses and zoning, including, when adjacent to the county or another municipality; adjacent roadways; proposed means of access; setbacks from property lines; elevation drawings of the proposed WTF; topography; parking and other information deemed by city staff to be necessary to assess compliance with this chapter.

2. Legal description of the property upon which or upon part of which the applicant proposed to locate the WTF and a list of all mortgages on the property at the time of application.

3. The setback distance between the proposed WTF and the nearest residential unit or the nearest platted or unplatted residentially zoned properties.

4. The separation distance from other existing WTFs within one thousand feet (1,000') of the proposed tower. The applicant shall also identify the type of construction of such existing WTF(s) and their owner(s)/operator(s).

5. The landscape screening plan showing specific landscape materials.

6. Method of providing security, fencing or wall, and finished color and, if applicable, the method of camouflage and illumination.

7. A description of compliance with sections 10-18-5E. to H. and 10-18-5K. to R. of this chapter and all applicable federal, state and local laws.

8. A notarized statement by the applicant as to whether construction of the WTF will accommodate co-location of additional antennas for future users.

9. Identification of the entities providing the network connections for the proposed WTF and other WTF sites owned or operated by the applicant in the city.

10. A statement as to the projected number and locations of any WTFs proposed to be built in the city within two (2) years of the date of the current application and that are part of the same system as the WTF for which a special use permit is currently being sought.

11. The applicant shall submit documentation of the legal right to install the WTF, including ingress and egress easements, and shall include original signature(s) of such land owner(s) and a copy of the property deed, plus a full copy of any proposed lease agreement with subject property owner(s).

12. A copy of the tax map and parcel identification code number of the subject property as shown in the records of the Dona Ana County Assessor's office.

13. A site plan showing all property within fifteen hundred feet (1,500') of the perimeter of the proposed property that will house the proposed WTF. A list of the owners of each of the affected properties and their mailing addresses as shown by the Dona Ana County Assessor's Office. The data shall be submitted in digital formal as well as a hard copy.

14. A copy of the FCC license for the WTF and a notarized statement from the owner or operator of the WTF attesting that the WTF complies with current FCC regulations.

15. Photo simulations and, if required, the photographic results of the site-located height model or balloon test.

16. Propagation maps showing the cellular coverage that the site will provide.

17. A written report indicating the applicant's efforts to secure shared use or co-location with existing WTFs or alternative technology or buildings within the city and neighboring areas within the City of El Paso and Dona Ana County. Copies of written requests and responses for shared use shall be provided to the P&Z along with the application for a special use permit.

C. Demonstration Of Need: An applicant shall submit to the P&Z documentation that demonstrates the need for the WTF to provide service within the geographical area proposed to be serviced by such WTF. The documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites.

D. Separation Distances: When a second WTF is proposed near an existing WTF, there shall be a minimum separation distance between them of not less than the combined height of the existing WTF and the proposed WTF, which distance shall be measured by drawing or following a straight line between the base of the existing WTF and the proposed base, pursuant to a site plan of the proposed WTF. The same separation distance shall apply when more than one (1) WTF is proposed at one (1) location.

E. Security Fencing: WTFs shall be enclosed by a security fence or wall not less than six feet (6') in height which is equipped with an appropriate anti-climbing device other than barbed or other cutting wire.

F. Screening: WTFs shall be landscaped with a buffer of plant material that effectively screens the view of the tower compound. The standard buffer shall consist of a landscaped strip at least four feet (4') wide outside the perimeter of the compound.

G. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. (Ord. 2005-07, 10-4-2005)

10-18-9: **BUILDINGS OR OTHER EQUIPMENT STORAGE:** The following requirements shall apply to the buildings and all other equipment storage space associated with a WTF requiring a special use permit:

A. The related unmanned equipment structure or cabinet, being part of the WTF, used in association with an antenna(s) located on a WTF shall not contain more than one hundred twenty (120) square feet of gross floor area or be more than ten feet (10') in height and shall be located in accordance with the minimum yard requirements of the zone in which it is located.

B. Such equipment structures or cabinets shall comply with all applicable building codes.

C. Security lighting, if required, shall not exceed twelve feet (12') in height and the location of the lighting fixture together with its cut-off angle shall be such that it does not shine directly on any public right-of-way, any residential premises, or release any lighting in an upward direction.

D. Mobile or immobile equipment not used in direct support of the WTF shall not be stored or parked on the site, unless repairs or maintenance to the WTF or related equipment structure or cabinet are being made. (Ord. 2005-07, 10-4-2005)

10-18-10: **APPLICATION REVIEW AND INSPECTION FEE:** An application review and engineering inspection fee as established by city council resolution, as amended from time to time, shall be paid by the applicant upon filing of an application for a special use permit with the city. The purpose of the fee shall be to cover the city's administrative costs for reviewing and processing the application and any related costs for engineering review, inspection, evaluation and consultation. (Ord. 2005-07, 10-4-2005)

10-18-11: **PERFORMANCE SECURITY BOND:** The applicant and the owner of record of any proposed WTF property site shall, at their own cost and expense, be jointly required to execute, file and maintain with the city a bond or other form of security acceptable to the city as to type of security and the form and manner of execution, in the amount of at least seventy-five thousand dollars ($75,000.00) to assure the faithful performance of the terms and conditions of this chapter and the conditions of any special use permit issued pursuant to the chapter.

The full amount of the bond or security shall remain in full force and effect through the term of the special use permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original special use permit. (Ord. 2005-07, 10-4-2005)

10-18-12: **LIABILITY INSURANCE:**

A. A holder of a special use permit for a WTF shall secure and at all times maintain public liability insurance for personal injuries, death and property damage and umbrella insurance coverage for the duration of the special use permit in the following amounts:

1. Commercial general liability covering personal injuries, death and property damage and automobile coverage each at one million dollars ($1,000,000.00) per occurrence and two million dollars ($2,000,000.00) aggregate and the commercial liability policy shall specifically include the city as an additional named insured.

2. Workers compensation at not less than minimum statutory limits.

B. The insurance policies shall be issued by an insurance agent of an insurance company licensed to do business in the State of New Mexico with a Best's rating of at least A and shall contain an endorsement obligating the insurance company to furnish the city with at least thirty (30) days prior written notice in advance of the cancellation of the insurance. Renewal or replacement policies or certificates shall be delivered to the city at least fifteen (15) days before the expiration of the insurance that the policies are to renew or replace.

C. The holder of a special use permit for a WTF shall deliver to the city a copy of each of the policies or certificates representing the insurance in the required amounts before construction of the permitted WTF is initiated. (Ord. 2005-07, 10-4-2005)

10-18-13: **INDEMNIFICATION:** Any application for a WTF that is proposed for city property pursuant to this chapter shall contain an indemnification provision. Such indemnification provision shall require the applicant, to the extent permitted by the law, to at all times indemnify, hold harmless and defend the city from and against all claims, actions, demands, losses, costs expenses, liabilities, assessments, penalties, and damages, including attorney's fees, in connection with or which might arise out of, result from, or be caused by the performance of work in the location, construction, modification, use, maintenance, repair, replacement or removal of the WTF or any part thereof, which causes bodily injury, illness or death or any other injury or for property damage caused by the negligent act or omission of the owner/operator/applicant or any of its/their agents, employees, servants, representatives, officers, directors or shareholders of the WTF. (Ord. 2005-07, 10-4-2005)

10-18-14: **REMOVAL OF A WIRELESS TELECOMMUNICATIONS FACILITY:**

A. Under the following circumstances, the city may determine that the health, welfare and safety of the city residents warrant and require the removal of a WTF:

1. A permitted WTF has not been operated as a WTF for a continuous period of six (6) months and is therefore considered to have been abandoned;

2. A permitted WTF falls into such a state of disrepair that it creates a health or safety hazard as determined by city staff;

3. A WTF has been located, constructed or modified without first obtaining, or in a manner not authorized by, the required special use permit.

B. If the city makes such a determination as appears in subsection A. of this Section, then the city shall provide the owner of such WTF with a notice of abandonment and an order to remove the same within ninety (90) days of receipt of the notice of abandonment from the city.

C. Failure by the owner or his/her successors or assigns to remove the abandoned WTF and all associated structures and facilities from the site and to restore the site to as close to its original condition as is possible or to take substantial steps toward removing the abandoned WTF within said ninety (90) days shall be grounds to remove the WTF at the owner's expense. (Ord. 2005-07, 10-4-2005)

10-18-15: **REQUIRED ANNUAL REPORT:** In conjunction with the annual renewal of their business registration, the owner of each WTF shall submit a report to the city clerk, 1000 McNutt Rd., Suite "A", Sunland Park, New Mexico 88063, stating the current user status of the WTF and providing proof of renewal of the insurance policies or certificate required pursuant to sections 10-18-11 and 10-18-12 of this chapter. (Ord. 2005-07, 10-4-2005)

10-18-16: **PROVISION FOR WAIVER OR VARIANCE:**

A. An administrative waiver of up to a ten percent (10%) difference, except for height, or a variance for over a ten percent (10%) difference, except for height, may be requested by the applicant at the time of filing for the special use permit. The conditions regulating the process for waiver and variance requests are set forth in sections 10-10-1 through 10-10-6 of this code and shall apply in this chapter.

B. In instances where strict compliance with this chapter would result in a violation of a clearly established, applicable provision of the Telecommunications Act of 1996 or other federal law or regulation, a minimal easing of the provision of this chapter may be approved by the approving

authority to the extent required to comply with such law. (Ord. 2005-07, 10-4-2005)

10-18-17: **PENALTY:** Any person who violates any provision of this chapter or any special use permit issued pursuant to this chapter shall be charged with a petty misdemeanor and upon conviction may be punished by a fine of not more than five hundred dollars ($500.00) or imprisonment for not more than ninety (90) days or both such fine and imprisonment as provided for in title 1, chapter 4 of this code. (Ord. 2005-07, 10-4-2005)

10-18-18: **DEFAULT AND/OR REVOCATION:**

A. If a WTF is repaired, rebuilt, placed, moved or modified in a way that is inconsistent or not in compliance with the provisions of this chapter or of the special use permit, then the city shall notify the holder of the special use permit in writing of such violation. Such notice shall specify the nature of the violation(s) or noncompliance and that action to begin correction of the violation(s) must be commenced within seven (7) days of the date of the postmark or personal service of the notice, whichever is earlier, and completed within forty-five (45) days of such date. Notwithstanding anything to the contrary in this subsection or any other section of this chapter, if the violation causes or presents an imminent danger to the health or safety of lives or property, the city may, at its sole discretion, order the violation remedied within twenty-four (24) hours.

B. If within the forty-five (45) day time period set forth above in subsection A. of this section, the WTF is not brought into compliance with the provisions of this chapter or of the special use permit, or substantial steps are not taken in order to bring the affected WTF into compliance, then the city may revoke such special use permit for the affected WTF and shall notify the holder of the special use permit within forty-eight (48) hours of such action. (Ord. 2005-07, 10-4-2005)

Chapter 19

NEW URBANISM DISTRICT

SECTION:

10-19- 1: Short Title
10-19- 2: Authority
10-19- 3: References and Purpose
10-19- 4: Applicability and Administration
10-19- 5: Definitions
10-19- 6: Adoption of Zoning Map
10-19- 7: STV1ZO Zone Districts
10-19- 8: Land Use and Zoning Regulations
10-19- 9: Special Provisions
10-19-10: Parking Requirements

10-19-1: **SHORT TITLE:** This chapter may be cited as the "Santa Teresa Village One Zoning Ordinance" or the "STV1ZO" for purposes of adopting the Santa Teresa Master Development Concept and the Santa Teresa Village One Specific Plan. However, provided that this chapter shall be integrated into the Sunland Park city code which shall be known as the "New Urbanism District" to be made part of this title. Notwithstanding that any verbiage referencing the specific Santa Teresa Master Development Concept or Santa Teresa Village One Specific Plan shall be applicable to said development concept and specific plan, all provisions and standards set out in this chapter shall be of general applicability to this type of district or other areas under the city's jurisdiction as specified in accordance with the memorandum of understanding dated February 10, 2005. (Ord. 2005-08, 12-6-2005)

10-19-2: **AUTHORITY:** This chapter is adopted pursuant to the enabling provisions of Section 3-17-1 and Section 3-21-1 through 3-21-14, NMSA, 1978, as amended. (Ord. 2005-08, 12-6-2005)

10-19-3: **REFERENCES AND PURPOSE:**

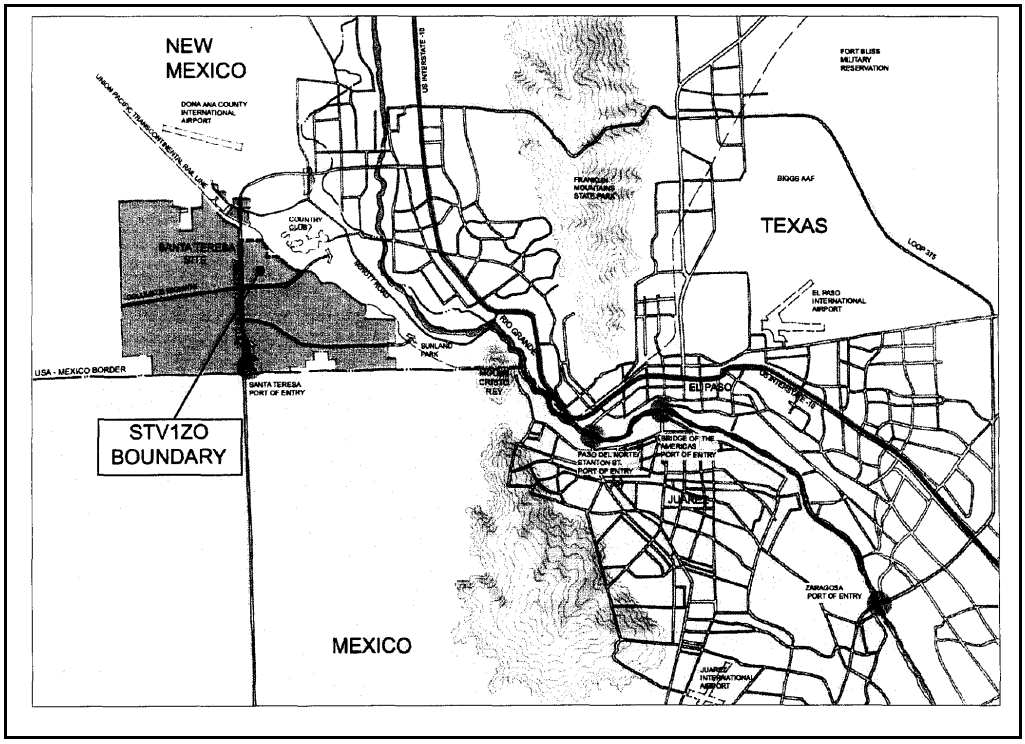
A. A reference in this chapter to "Santa Teresa-Village One" means and refers to the area designated on the Santa Teresa Village One Zoning Map.

B. This chapter is adopted with the intent and effect of promoting and allowing "pedestrian-oriented mixed-use" developments within Santa Teresa-Village One, which development shall have no less than twenty percent (20%) of the total development area dedicated to parks and open space and open space (within a lot).

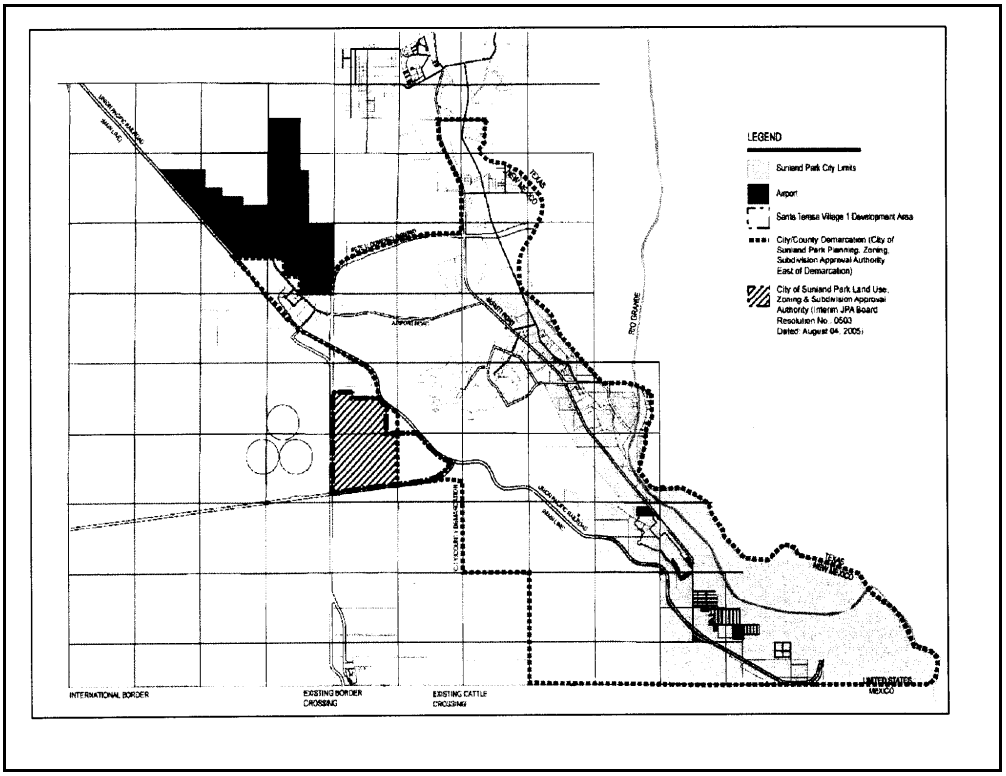
C. This chapter shall govern and control all development within Santa Teresa-Village One. Any contradiction, inconsistency or ambiguity between the requirements of this chapter and any other provisions of the this title and title 11, chapter 8 of this code, shall be governed and controlled by the requirements of this chapter. If not specifically covered in STV1ZO, the provisions of the this title and title 11, chapter 8 of this code, shall apply.

D. The Santa Teresa lands affected by the STV1ZO sit north of Columbus Highway and east of Pete Dominici International Beltway; generally west of the current city of Sunland Park municipal boundaries. Map 3.1 and Map 3.2 illustrates the context of the approximate one thousand one hundred (1,100) acre STV1ZO boundary in the greater Sunland Park area.

Map 3.1: Santa Teresa Regional Context Map



Map 3.2: Santa Teresa Village One Site Context Map



(Ord. 2005-08, 12-6-2005)

10-19-4: **APPLICABILITY AND ADMINISTRATION:**

A. Applicability: The zones described in this chapter are established to regulate and separate the locations of land uses as appropriate.

B. Administration And Enforcement:

1. Zoning Administrator

a. Appointment: The community development director shall be the designated zoning administrator. Any reference to "zoning administrator" throughout this chapter shall be interchangeable and synonymous with "community development director".

b. Duties:

(1) The zoning administrator shall administer the provisions of this chapter.

(2) Notice Of Violation To Responsible Person: If the zoning administrator shall find that any of the provisions of this chapter are being violated, he/she shall notify in writing the person(s) responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it.

(3) Remedial Action: He/she shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.

2. Certificates Of Zoning Compliance:

a. Certificate Required: It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued therefore by the zoning administrator stating that the proposed use of the building or land conforms to the requirements of this chapter.

b. Nonconforming Structure Or Use: No existing, nonconforming structure or use shall be changed until a certificate of zoning compliance has been issued by the zoning administrator. The certificate of zoning compliance shall state specifically how the nonconforming use differs from the provisions of this chapter; provided that upon enactment of the chapter, owners or occupants of nonconforming uses or structures shall have thirty (30) days to apply for certificates of zoning compliance.

c. Application For Certificate: No permit for erection, alteration, moving or repair of any building shall be issued until an application has been made for a certificate of zoning compliance, and the certificate shall be issued in conformity with the provisions of this chapter upon completion of the work.

d. Maintain Records: The zoning administrator shall maintain a record of all certificates of zoning compliance, and a copy shall be furnished upon request to any person.

e. Failure To Obtain Certificate: Failure to obtain a certificate of zoning compliance shall be a violation of this chapter and punishable under subsection B4 of this chapter.

3. Construction And Use; Compliance With Plans And Permits: Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the zoning administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use,

arrangement, or construction at variance with that authorized shall be a violation of this chapter and punishable as provided by subsection B4 of this chapter.

4. Penalty: Any person found guilty of violating any provision of this chapter shall be subject to penalty as provided in the city code, section 1-4-1. Each day of a violation shall be considered a separate offense. (Ord. 2005-08, 12-6-2005)

10-19-5: **DEFINITIONS:** In interpreting this chapter, the following terms, words, or phrases used herein shall be defined and interpreted as follows:

A. The present tense includes the future tense, the singular number includes the plural, the plural number includes the singular, the masculine includes the feminine, and the feminine includes the masculine.

B. The words "shall" and "must" are mandatory, the word "may" is permissive.

ACCESSORY DWELLING UNIT: Accessory dwelling units are a residential unit located on the same parcel of land as a single-family unit, which is secondary in size and use to the single-family unit.

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

ACCESSORY USE: A use of the land or a building that are subordinate to the principal use.

ADMINISTRATIVE REVIEW: Review of a zoning or other application to the city that is reviewed and approved, approved with conditions, or denied by staff.

ALLEY: A public or private thoroughfare which affords typically a secondary means of access to abutting property.

ANIMAL SHELTER: A facility providing animal care or boarding services not restricted to household pets with overnight accommodations, animal hospitals, boarding kennels, and/or the maintaining, raising, harboring and/or boarding of four (4) or more dogs or six (6) or more cats or six (6) or more dogs and cats.

ANTENNAS:	Any structure that radiates or receives radio or other communication signals.
ASSISTED LIVING/ RETIREMENT FACILITY:	A community residence(s) specifically designed for those who are able or wish to live an independent lifestyle but may need assistance with daily chores, such as, cooking, cleaning, laundry, and/or driving. On-site, skilled nursing care or medical facilities may be permitted. Any living facility or part thereof which requires licensing by the New Mexico State Health Department shall be considered a nursing home.
ATTACHED:	The physical union of two (2) otherwise independent structures or objects, or the relation between two (2) parts of a single structure, each having its own function.
AUDITORIUM:	A large room to accommodate an audience in a building such as a school or theater, or, an indoor or outdoor facility to hold public meetings or performances.
AUTOMOTIVE SERVICE & REPAIR:	An establishment engaged in performing major repairs to the servicing of automobiles. Such work excludes commercial wrecking, dismantling, junkyard, tire, and truck-tractor repair. Major repair may include engine overhaul, brake repair, glass replacement, repair of electrical accessories such as starters and alternators, frame alignment, and rebuilding of wrecked automobiles. Outdoor storage of vehicles awaiting repair, materials, or supplies is controlled by enclosure requirements of the specific use district; however, any unenclosed areas shall be provided with a fence or wall constructed to a height adequate to conceal any vehicles, equipment or supplies located on the lot; proper maintenance to keep the areas in good condition, free of weeds, dust, trash, and debris.
AWNINGS:	A detachable, rooflike cover, supported from the walls of a building for protection from sun or weather.

BANKING AND FINANCIAL SERVICES:	A facility engaged in deposit banking or extending credit in the form of loans. This definition includes, but is not limited to, all uses in the following similar uses: depository institutions, non-depository institutions.
BAR:	An establishment or room at which drinks, especially alcoholic drinks, and sometimes food are served.
BED & BREAKFAST:	An owner-occupied or manager-occupied residential structure providing rooms for temporary, overnight lodging, with or without meals, for paying guests.
BOARDING OR ROOMING HOUSE:	A dwelling unit containing up to and including five (5) guest rooms where lodging is provided, with or without meals, for compensation.
BLOCK:	The enclosed area within the perimeter of the street's right-of-way lines.
BLOCK FACE:	One (1) side of a block.
BUILD:	To erect, convert, enlarge, reconstruct, or structurally alter a building.
BUILDING:	Any structure built for use of persons or animals.
BUILDING HEIGHT:	The height of a building measured from the lowest adjacent ground surface level to the highest point of the building.
CARPORT:	Space for the housing or storage of motor vehicles and enclosed on not more than two (2) sides by walls.
CHURCH OR RELIGIOUS INSTITUTION:	A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship.
CLUB:	Any membership organization catering exclusively to members and their guests and whose facilities are limited to meeting, eating and/or recreational uses, and further, whose activities are not conducted for monetary gains;

	including, but not limited to, civic, fraternal, charitable, religious, social and patriotic organizations.
CO-LOCATION:	The physical attachment and/or placement of one (1) communication structure upon another communication structure, and may include placing different or similar communication structures on the receiving structure. For example, a cellular transmitter being placed on a television receiver tower or a cellular transmitter on another cellular transmitter tower.
COMMERCIAL COMMUNICATION STRUCTURES:	Any structure, including antennas and satellite service devices, or any other device which is normally used for radio, television, microwave, or wireless communications. This shall include any device that is attached to a new or an existing tower, or attached to a building facade or roof or other non-communication structure, and such attachment is made to the facade or roof vertically, horizontally and/or diagonally.
CONDOMINIUM:	A residential, professional, commercial, office, or industrial development in which each unit is owned individually, whether the unit includes the ground beneath, air space, walls, floors, or any combination thereof, and in which other areas and facilities within the development are owned and maintained jointly by a group, association, or corporate entity.
COURT:	An open space or plaza that is surrounded by a single building or several individual buildings.
DAY/CHILD CARE:	Child care center, group child care home, family child care home, preschool, nursery school, day nursery, kindergarten and similar uses shall be in accord with state licensing requirements.
DRIVE THROUGH FACILITY:	Drive-in or drive-up facilities for ordering associated with commercially oriented uses.
DUPLEX:	One (1) building arranged, intended or designed to be occupied by two (2) families living independently of each other and having separate cooking facilities in each dwelling unit.

DWELLING UNIT:	One (1) or more connected rooms and a single kitchen designed for and occupied by no more than one (1) family for living and sleeping purposes.
DWELLING UNIT, SINGLE FAMILY ATTACHED (SFA):	A residential structure on a private lot or lots, which is attached to other units horizontally or vertically.
DWELLING UNIT, SINGLE-FAMILY DETACHED (SFD):	A residential structure on a private lot, detached from other units and designed for and occupied by no more than one (1) family for living purposes.
FACIAL MOUNT:	The physical attachment of a communication structure to a building or other non-communication structure, which does not substantially increase the height of the building or structure. Examples of other structures include, but are not limited to: freestanding signs and billboards, stadium lights, gas station canopies, electric poles, area and street lights, and church spires. This can include attaching the structure either vertically, horizontally, or diagonally along the structure's building facade, walls, roofs, or other surfaces.
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 in a dwelling.
FARM:	An area which is used for the growing of the usual farm products such as vegetables, fruit, fodder, trees and grain, and their storage on the area.
FINISHED GRADE:	The average of the finished ground level at the center of all walls of a building.
FLOOR AREA:	The total gross area of all floors of a building.
FLOOR AREA RATIO:	The total gross square footage of a structure or building divided by the total square footage of the lot, parcel, or tract on which the structure is located or to be placed.
FRONTAGE:	The distance along a street right-of-way line from one (1) intersecting street to another or

	from one (1) intersecting street to the end of a dead-end street.
GARAGE, COMMERCIAL:	Any building or structure where automobiles, trucks, tractors, or other vehicles are stored, painted, repaired or equipped for a charge, and where the service and sale of gasoline and oil are incidental to the principal building use.
GARAGE, PRIVATE:	Any accessory building for the primary purpose of housing vehicles which are owned and used by the occupants of the main building.
GAS STATION:	A business where the primary use is to sell motor vehicle fuels at retail prices.
GROCERY:	A store selling foodstuffs and various household supplies.
GROUND OR STRUCTURE MOUNTED COMMUNICATION APPURTENANCE:	Minor, mountable communication device that receives programming through the transmission of signals. These devices are small and generally serve the building on which they are attached. These may include, but are not limited to, television antennas or satellite appurtenances.
HEALTH CLUB:	A place of business with equipment and facilities for exercising and improving physical fitness.
HOME ARTISAN BUSINESS:	A home artisan business shall be considered artist's studios, cabinet making, dress making, engraving, furniture making, hobby crafts, jewelry making, sewing, tailor, writing studio and similar uses.
HOME OCCUPATION:	A home occupation use is a combination of residential occupancy and commercial activity located within a dwelling unit. The work activities shall not adversely impact the public health, safety, and welfare, or the livability, functioning, and appearance of the adjacent property. This definition excludes TIENDITAS.
HOSPITAL:	An institution providing health services, primarily for inpatients, and medical or surgical care of the sick or injured, including as an integral part of the institution, such related

	facilities as laboratories, outpatient departments, training facilities, central service facilities and staff offices.
HOTEL:	One (1) or more buildings providing temporary lodging primarily to persons who have residences elsewhere, or both temporary and permanent lodging in guest rooms, or apartments. The building or buildings have an interior hall and lobby with access to each room from such interior hall or lobby. Accessory uses may include an eating place, meeting rooms, and other similar uses. Notwithstanding the gross floor limitations for accessory uses, conference facilities not exceeding fifteen percent (15%) of the gross floor area of the hotel are permitted in addition to the floor area occupied by all other accessory uses.
INDOOR RECREATION CENTER:	Indoor recreational uses and structures including but not limited to game rooms, bowling alleys, pool rooms, or skating rinks.
INSTRUCTIONAL SERVICE:	An instructional service use shall be considered educational tutoring, music lessons and similar instructional services. A maximum of five (5) students may be at the dwelling at any one (1) time. No music instruments may be amplified.
LOT:	Any parcel of land platted and placed on record in accordance with laws and ordinances described by plat or metes and bounds and having frontage on a public right-of-way or private street or alley.
LOT AREA:	The aggregate lot area measured to property lines.
LOT, CORNER:	Any lot located at the intersection of, and having frontage on, two (2) or more streets.
LOT DEPTH:	The average distance between the front and rear lot lines measured in the mean direction of the side lot lines.
LOT, DOUBLE FRONTAGE:	Any lot with frontage on two (2) parallel or approximately parallel streets.
LOT LINE, FRONT:	The boundary of a lot bordering on a street.

LOT LINE, REAR:	The lot boundary line which is opposite and most distant from and not coterminous with the front lot line.
LOT LINE, SIDE:	Any boundary line, not a front lot line or a rear lot line.
LOT WIDTH:	The width of a lot measured ten feet (10') from the lot line on the narrowest portion of the lot.
MAJOR RECREATIONAL EQUIPMENT:	Include boats and boat trailers, travel trailers, pickup campers or coaches (designed to be mounted on automotive vehicles), used for transporting recreational equipment, whether occupied by such equipment or not.
MANUFACTURED HOME:	A factory-built dwelling, which is manufactured or constructed under the authority of 42 USC section 5403, Federal Manufactured Home Construction and Safety Standards, which is not constructed with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. For the purpose of any of these regulations, manufactured homes shall be considered the same as a single-family detached dwelling.
MEDICAL USE-CLINIC:	An establishment occupied by one (1) or more members of the medical or dental profession for the purpose of providing health services.
MERCHANDISE SALES:	General retail related sales of durable and non-durable goods.
MIXED-USE:	A land use pattern which provides for the integration of appropriate residential and non-residential uses, both vertically and horizontally.
MUSEUMS AND OTHER CULTURAL INSTITUTIONS:	A public or private facility, including an aquarium, operated as a repository or a collection of natural, scientific, or literary curiosities or objects of interest, not including the regular sale or distribution of the objects collected. Activities may include the sale of crafts work and artwork, boutiques, and the holding of meetings and social events.

NURSING HOME, HOSPICE: An establishment licensed by the State Department of Public Health, which establishment maintains and operates continuous day and night facilities providing room and board, personal services and skilled nursing care, including hospices, specifically excluding, however, hospitals.

OFFICE: Occupancy primarily for the provision of professional, executive, management, or administrative services; excluding, however, dental or medical clinic or office. Typical uses include real estate offices, brokerage firms, legal offices, or architectural firms.

ON-STREET PARKING: This type of parking exists on a dedicated public street within the right-of-way.

OPEN SPACE (WITHIN A LOT): A. Residential: Open space includes softscape, hardscape, driveways and other non-vertical structures that are permanent or semi-permanent.

B. Non residential: Open space includes softscape and/or hardscape areas of a site. Structures, parking lots, and drives shall not be counted towards open space.

OUTDOOR MARKET: An occasional or periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the public.

OUTDOOR STORAGE: The storage of goods outside of a building for sale or storage related to a principal use.

PARKING GARAGE: A structure for automobile storage/parking. The parking garage may serve uses such as residential developments, entire commercial districts, or a single use such as an office building.

PARKING LOT: An area provided for self-parking by employees, visitors, residents, and/or patrons of any public/institutional, commercial, industrial, or multi-family residential use.

PARKS AND OPEN SPACE: An area of land which is developed or intended for development with landscaping or associated

	accessory improvements which promote recreational activities by the public. Drainage facilities and associated features designed for a dual purpose use as a recreation and drainage feature shall be included in this definition. May be either publicly or privately owned.
PERMITTED USE:	Any use listed as a use by right, a use by temporary permit, a home occupation or an accessory use in any given district, and/or other uses allowed in all districts unless restricted by special limitations, and/or any conditional use or by special review which has been approved according to the required procedure.
PERSONAL SERVICES:	Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel. They include but are not limited to uses such as barbershops, beauty shops, dry cleaning, shoe repair shops, tanning salons, linen supply, diaper service, funeral services and domestic services.
POSTAL FACILITY, NEIGHBORHOOD:	A facility that has distribution boxes (cluster boxes) and collection services for the general public, mail carriers, and retail services; excluding however, the distribution of bulk mail or packages to other postal facilities.
PRIVATE GARAGE:	An accessory structure that typically accompanies a dwelling unit principal structure.
PROFESSIONAL OFFICE:	A professional office shall be considered an office for accountants, appraisers, architects, attorneys, contractors, engineers, financial planners, insurance agents, consulting services, real estate and similar office uses. Dentist and medical doctor offices shall not be considered as a professional office.
PROFESSIONAL SERVICE:	Uses such as accounting, auditing, bookkeeping, architectural, engineering, planning and surveying services, bank, bonding and financial institutions/ facilities (no drive thru), real estate, tax preparation, legal services, insurance.

PUBLIC/CIVIC USE: A facility utilized for public use by a government entity such as, but not limited to, municipal offices, libraries, or schools.

PUBLIC RECREATIONAL FIELD/COURT: An area of public land used for traditional sports activities that include football, baseball, softball, soccer, field hockey, basketball, tennis, racquetball, volleyball, and running track.

RECREATION SERVICES/ CENTER: Establishments providing indoor and/or outdoor sports or recreation by and for participants; excluding, however, community centers. Any spectators would be incidental and attend on an irregular basis. This definition includes, but is not limited to, the following:

A. Dance studios and schools;

B. Producers, orchestras;

C. Bowling centers;

D. Sports clubs;

E. Physical fitness facilities;

F. Amusement center;

G. Membership sports and recreation clubs;

H. Batting cages;

I. Golf-course.

RESTAURANT (SIT DOWN): An establishment where food/drink is typically consumed on-site. This type of restaurant may include indoor or outdoor seating for serving and consumption of food on-site.

RESTAURANT (DRIVE THRU): An establishment where food/drink is consumed on or off-site. Off-site consumption.

RETAIL: Sale to the ultimate consumer for direct consumption or use and not for resale.

ROOM: Any enclosed division of a building containing over seventy (70) square feet of floor space and commonly used for living purposes, not including lobbies, halls, closets, storage space,

	bathrooms, utility rooms and unfinished attics, cellars or basements.
SATELLITE APPURTENANCE/ DEVICE:	Any structure used to receive satellite programming services specifically associated with television reception from the transmission of signals from a satellite to a receiver, usually a round "dish" that can vary in size. This does not include those dishes or devices used for two-way communications.
SCHOOL, ELEMENTARY, MIDDLE, OR HIGH:	A public or private school meeting all requirements of the compulsory education laws of the state and providing instruction to students in kindergarten through grade twelve (12). Middle and high schools are generally grades six (6) through twelve (12).
SETBACK:	The required distance between every building or structure and any lot line on the lot on which it is located. Setbacks shall consist of an open space, unoccupied and unobstructed by any part of a building or structure, as defined except as may be authorized by this chapter.
SIGHT TRIANGLE:	The area of unobstructed vision at street intersections, intersections of streets and alleys and multiple parking areas entrances/exits permitting a vehicle driver to see approaching vehicles to the right or left.
SMALL ITEM REPAIR SERVICE:	A small item repair service shall be considered locksmith repair, watch repair, tool repair, shoe repair and similar repair services.
STORAGE SHED:	A structure or part of a structure designed for storing goods; business, personal, or household effects; and other items of personal property by or with permission of the owner of that personal property. Examples include gardening or tool sheds. Storage sheds are regulated in this chapter based on square footage of structure.
TEMPORARY USE:	A temporary use is a use (business, sale, display or event) which is conducted for a limited time. Temporary uses may be conducted in tents, temporary or permanent buildings, vehicles, trailers or outside. Other

	temporary uses not listed in this section may be listed under permitted uses for a specific zone.
THEATRE:	A structure used for dramatic, operatic, motion pictures or other performance, for admission to which entrance money is received and no audience participation or meal service is allowed.
TIENDITA:	A commercially focused space within a principal structure in a primarily residential area that is </= 650 square feet in size. The commercially focused space shall be limited to a single personal service, professional service or small merchandising use. The commercial space must have a separate entrance door easily accessible from a public street. These uses are typically located on corner lots and within activity centers and shall be recorded on the final plat.
TOWER:	Any structure, vertical in inclination, which is normally used to support antenna or other commercial communication structures. This may include television and radio towers, guy towers, and all other free standing towers, either for private or commercial purposes.
TOWNHOUSE:	One (1) of a group of attached dwelling units divided from each other by common walls and each having a separate entrance leading directly to the outdoors at ground level.
TRANSPORTATION CENTER:	Facilities including but not limited to bus, taxi, charter bus, and railroad stations or depots.
USE, ACCESSORY:	Subordinate and incidental to a principal use or structure on the same lot.
USE, CONDITIONAL:	An allowable land use, but which shall not be undertaken until such use is reviewed and approved by the city planning and zoning commission. Since it is an allowable use, the city planning and zoning commission may not deny it outright; however, the commission may require the applicant to enter into enforceable agreements or undertakings restricting such use in the interest of the public welfare and the value of the property in that area.

UTILITIES: Minor structures and appurtenances associated with public or private utility companies to provide services to uses developed.

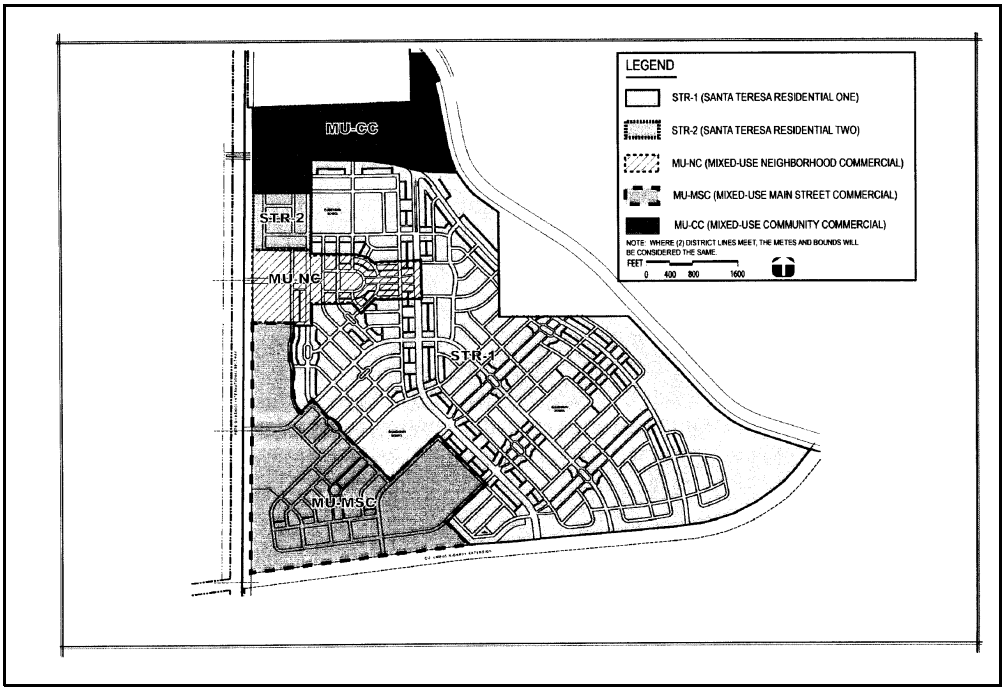
VARIANCE: An amendment to the terms of this chapter where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship. As used in this chapter, a variance may be authorized only for area, height, dimension, distance, setback, off-street parking, and off-street loading requirements or as elsewhere specifically authorized by this chapter.

VERTICAL STRUCTURE: Any built object that is either independent of or attached to any building that is perpendicular in its direction to the nearest adjacent ground. May include such structures as spires, belfries, flag poles, steeples, and other similar structures, but does not include antennas, towers, communication structures, and satellite service devices. (Ord. 2005-08, 12-6-2005)

10-19-6: **ADOPTION OF ZONING MAP:** The Santa Teresa Village One Zoning Map** (Map 6.1) herein is hereby adopted and incorporated into the Santa Teresa Village One Zoning Ordinance (STV1ZO). The zoning districts depicted and shown on Map 6.1 are hereby created, established and adopted.

A. Zone Boundary Description: The Santa Teresa Village One zone boundary and sub-district boundaries in the STV1ZO have been established on the Village One Zoning Map** (Map 6.1). The exact location of the village one boundaries shall be described by a boundary survey and the subdistrict boundaries shall be described by metes and bounds in conformance with the adopted Village One Zoning Map (Map 6.1).

B. Zone Map Amendment: All zone map amendments shall follow the public hearing and notice procedure mandated by § 3-21-6 NMSA 1978, as amended from time to time.



(Ord. 2005-08, 12-6-2005)

10-19-7: **STV1ZO ZONE DISTRICTS:**

A. Zone Districts: The following five (5) zone districts are hereby created in the STV1ZO. Three (3) of the zone districts are true mixed use zones that are envisioned to primarily permit commercial uses. The two (2) residential zones are meant to primarily allow for various residential uses, but do not preclude non-residential uses.

1. Mixed Use Neighborhood Commercial (MU-NC): The mixed use neighborhood commercial zone is intended to accommodate limited commercial uses typically associated with a neighborhood-oriented retail center. Limited uses, limited square footages, and smaller floor plates for commercial uses are permitted. Development assumes primarily an inline (zero setback) approach to buildings to ensure a neighborhood retail street character. Vertical mixed-use development is encouraged.

2. Mixed Use Main Street Commercial (MU-MSC): The mixed use main street commercial zone is intended to accommodate a broader range of commercial uses typically associated with a community serving retail center. Slightly larger square footages and floor plates are permitted. Development assumes primarily an inline (zero setback) approach to buildings to ensure a neighborhood retail street character, but permits some structures to be setback for specific circulation needs, such as a gas station. Vertical mixed-use development is encouraged.

3. Mixed Use Community Commercial (MU-CC): The mixed use community commercial zone is intended to accommodate mid to large box commercial uses typically associated with a community to regional serving retail centers. The largest floor plates are permitted in this zone. Development here assumes a combination of inline (zero setback) and pad (building setback) approach to building placement. Vertical mixed-use development is allowed.

4. Santa Teresa Residential One (STR-1): The STR-1 zone is intended primarily for single-family detached homes on various lot sizes. Attached products up to a certain density are also allowed for variation in neighborhood character and to accommodate market needs. Limited non-residential uses are permitted.

5. Santa Teresa Residential Two (STR-2): The STR-2 zone is intended to accommodate slightly higher residential development that may include a greater combination of single-family detached and attached product types on various lot sizes. Limited non-residential uses are permitted.

B. Regulations Governing Zone Districts:

1. Basic Regulations: The regulations governing zone districts in the STV1ZO are set forth in the Zone District Matrices, Exhibit 7.1 and 7.2 below, which are hereby adopted and incorporated herein. The following regulations apply to principal structures. Also refer to subsection B2 for supplementary regulations.

Exhibit 7.1: Zone District Matrix - Commercial Zones

Land Use	***Front Yard Setback***	***Rear Yard Setback***	***Side Yard Setback***	***Max. FAR (Floor Area Ratio)***	***Height***	***Min. Open Space***
MU-NC*	0' min. 12' max.	15'	0'	2.0 FAR	24' min. 42' max.	10%
MU-MSC*	0' min. 12' max.	15'	0'	4.0 FAR	24' min. 65' max.	10%
MU-CC*	10' min.	15'	0'	2.0 FAR	24' min. 65' max.	15%

* If purely residential uses are developed (not mixed-use) refer to STR-2 below for regulations.

Exhibit 7.2: Zone District Matrix - Residential Zones

Land Use	*Min. Lot Size (sq. ft.)*	*Min. Lot Depth*	*Min. Lot Width*	*Front Yard Setback*	*Rear Yard Setback*	*Side Yard Setback*	*Max. Density per acre*	*Height*	*Min. Open Space*
STR-1									
SFD — Facing Street	4,050	90'	45'	6' min. 17' max.	20'	0' or 4'[(a)]	10 du/ac	35' max.	30%
SFD — Not Facing Street	1,500	30'	30'	6' min. 17' max.	4'	0' or 4'[(a)]	15 du/ac	35' max.	30%
SFA	1,120	70'	16'	6' min. 17' max.	4'	0'	15 du/ac	35' max.	20%
STR-2									
SFD — Facing Street	2,800 or 4,050 [(b)]	70' or 90'[(b)]	40' or 45'[(b)]	6' min. 15' max.	4'	0' or 4'[(a)]	18 du/ac	35' max.	20%
SFD — Not Facing Street	1,500	30'	30'	0' min. 15' min.	4'	0' or 4' [(a)]	25 du/ac	35' max.	20%
SFA	1,120	70'	16'	0' min. 15' max.	4'	0'	25 du/ac	60' max.	20%

Notes:

(a) Up to ten percent (10%) of the total SFD residential lots within the STR-1 and STR-2 zone districts may have a zero setback (i.e., 0') on one (1) side yard, provided that the other side yard setback is a minimum of ten feet (10'). All other SFD residential lots within the STR-1 and STR-2 zone districts shall have a minimum side yard setback of four feet (4').

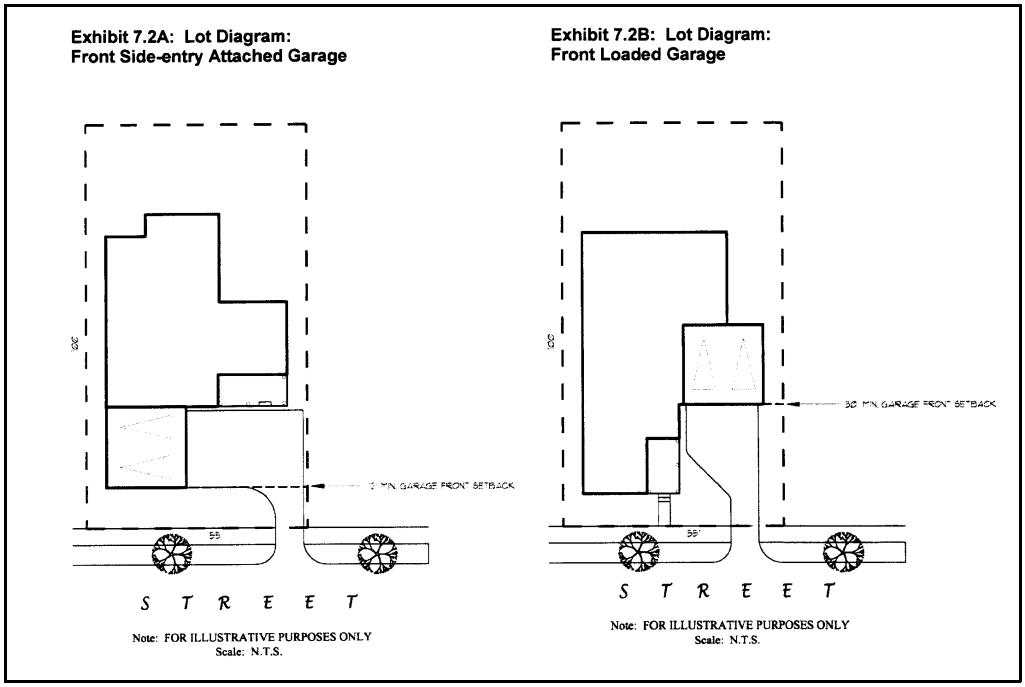
(b) Up to twenty percent (20%) of the total land area within the STR-2 zone district may have SFD-facing street residential lots with a minimum lot depth of seventy feet (70') and a minimum lot width of forty feet (40'), corresponding to a minimum lot size of two thousand eight hundred (2,800) square feet. All other SFD-facing street residential lots shall have a minimum lot depth of ninety feet (90') and a minimum lot width of forty-five feet (45'), corresponding to a minimum lot size of four thousand fifty (4,050) square feet.

2. Supplementary Regulations:

a. Side yard setback along a street shall be increased by a minimum of five feet (5').

b. Front side-entry attached garages shall have a minimum front yard setback of twelve feet (12'). (See Exhibit 7.2A)

c. Front-loaded garages shall set back a minimum of thirty feet (30') from the front lot line. (See Exhibit 7.2B)



10-19-8: **LAND USE AND ZONING REGULATIONS:**

A. Permitted Uses: Permitted uses may be proposed anywhere within a sub-district in which they are allowed pursuant to the permitted use matrix (Exhibit 8.1). Land uses not explicitly listed herein are not permitted uses.

Exhibit 8.1: Permitted Use Matrix

Permitted Use	***Residential Zones***		***Commercial Zones***		
	STR-1	***STR-2***	***MU-NC***	***MU-MSC***	***MU-CC***
Animal shelter					x
Automotive service and repair < 5,000 sq. ft. site				x	
Automotive service and repair > 5,000 sq. ft. site					x
Banking or financial services			x	x	x
Bed and breakfast - <= 8 rooms		x	x	x	x
Church or religious institution			x	x	x
Day/child care –As regulated by state of NM (<= 10 kids in residential zones)			x	x	x
Drive through facilities					x
Dwelling – SFA <=15 units/ac	x	x	x	x	x
Dwelling – SFA > 15 units/ac		x	x	x	x
Dwelling - carriage units/guest houses < 650 sq. ft.	x	x	x	x	x

Permitted Use	*Residential Zones*		*Commercial Zones*		
	STR-1	*STR-2*	*MU-NC*	*MU-MSC*	*MU-CC*
Dwelling – SFD	x	x	x	x	x
Gas station				x	x
Grocery <= 20,000 sq. ft.			x	x	x
Grocery > 20,000 sq. ft.				x	x
Health club			x	x	x
Hospital					x
Hotel				x	x
Medical use - clinic			x	x	x
Merchandise sales			x	x	x
Museum and cultural institutions			x	x	x
Nursing home, hospice				x	x
Office <= 15,000 sq. ft.			x	x	x
Office > 15,000 sq. ft.				X	x
Open space	x	x	x	x	x
Outdoor market			x	x	x
Parking garage				x	x
Park	x	x	x	x	x
Personal service			x	x	x
Professional service			x	x	x
Public/civic use	x	x	x	x	x
Restaurant <= 70 seats			x	x	x
Restaurant > 70 seats				x	x
School – elementary	x	x	x	x	x
School – middle	x	x		x	x
School – high	x	x		x	x
Theatre (<= 6 screens)				x	
Theatre (> 6 screens)					x

* Tienditas require a conditional use permit and are only permitted on lands identified for such use on the original, recorded plat of the land. Additional tiendita uses will not be permitted if such use is not explicitly identified on the original plat.

B. Accessory Uses And Structures: Accessory uses include uses of land or buildings that are subordinate to the principal use. The accessory use is located on the same lot or parcel serving a principal use.

Exhibit 8.2: Accessory Use Matrix

Special Use	*Residential Zones*		*Commercial Zones*		
	STR-1-SF	*STR-2-SF*	*MU-NC*	*MU-MSC*	*MU-CC*
Carport	x	x	x	x	x
Storage sheds < = 200 sq. ft.	x	x			
Ground or structure mounted communication appurtenances	x	x	x	x	x
Private garage (detached)	x	x	x	x	x

Telecommunication structures, facilities, towers, and related accessory structures and uses shall be exclusively regulated by this title, chapter 18 of this code. Accessory uses are permitted in any district as may be specified in the appropriate district regulations or herein. An accessory use building permit shall be required where specifically noted in this section. Accessory uses are permitted only after their principal structure is present or under construction. The use and/or location requirements stipulated elsewhere in this chapter may be modified for accessory uses as follows subject to planning and zoning commission approval:

1. General Architectural And Aesthetic Compatibility: All accessory structures shall be architecturally compatible with the principal structure. Exterior building materials and colors should not unduly contrast with the site's background. Inappropriate exterior building materials include, but are not limited to, untextured exposed concrete, untextured or unfinished unit masonry, highly reflective glass, reflective metal roof, and unpainted aluminum window frames.

2. Accessory Uses And Detached Accessory Structures: Accessory uses and detached accessory structures shall be permitted in the rear yard only, unless otherwise specified; may be located on an interior lot line; and shall not exceed fifteen feet (15') in height. Accessory structures shall not occupy more than twenty percent (20%) of the rear yard in all districts except the commercial districts where such uses and structures shall not occupy more than thirty-five percent (35%) of the rear yard setback. When permitted in the side or front yard, accessory structures shall not occupy more than fifteen percent (15%) of the respective side or front yard area.

a. Accessory uses (and structures) permitted in the rear yard area only.

(1) Accessory structures one hundred twenty (120) square feet or less in area provided they are located at least ten feet (10') from the principal building. Such buildings shall not require the issuance of a building permit. The zoning administrator may grant a waiver from the requirement that an accessory use (or structure) be located at least ten feet (10') from a principal building and permit such accessory use (or structure) within five feet (5') of the principal structure. Such waiver shall only be granted when the

accessory structure is not designed or intended to store or contain any flammable liquid or vehicles or equipment containing flammable liquids; or where the accessory structure is constructed with a fire wall as if it were attached to the principal building; or where the accessory use (or structure) is not detrimental to the health, safety, and welfare of the surrounding uses or structures within two hundred feet (200'). The zoning administrator shall consider the health, safety, general welfare, and aesthetics of the proposed construction before granting such a waiver.

(2) Fire wood pile provided that the fire wood is neatly stacked and does not exceed a height of five feet (5') unless it is stacked against a permitted principle or accessory building.

(3) Gardens.

(4) Gazebo provided they are located at least ten feet (10') from the principal building and any other accessory building or structure. Such buildings shall require the issuance of a building permit.

(5) Jacuzzi/hot tub. Such equipment shall require the issuance of a building permit.

(6) Patio, not including a covered patio.

(7) Permanent volleyball court.

(8) Playhouse provided they are located at least ten feet (10') from the principal building and any other accessory building or structure.

(9) Swimming pool provided they are located at least ten feet (10') from the principal building and any other accessory building or structure. A swimming pool shall require the issuance of a building permit.

(10) Swing sets and gym sets.

(11) Tennis court.

(12) Wood deck, not including a covered deck. A deck projecting from a building with a deck elevation four feet (4') or more above grade shall be considered a balcony for the purpose of regulation and shall meet requirements thereof. Decks may extend into the side yard provided that the side yard setback for the district in which it is located shall be complied with. A deck shall require the issuance of a building permit.

(13) Similar items determined to be appropriate by the zoning administrator.

b. Accessory uses (and structures) permitted in any side or rear yard.

(1) Basketball hoops.

(2) Bird baths.

(3) Flag poles.

(4) Fountains.

(5) Lawn sculpture.

(6) Religious statue.

(7) Wishing well.

(8) Similar items determined to be appropriate by the zoning administrator.

c. Unless otherwise noted, the following uses, which may be accessory to a principal use, shall meet all the front, side, and rear yard requirements of the district in which they are located. All uses listed below shall require the issuance of a building permit.

(1) Accessory buildings more than one hundred twenty (120) square feet in area provided they are located at least ten feet (10') from the principal building and any other accessory building or structure. The zoning administrator may grant a waiver from the requirement that an accessory building be located at least ten feet (10') from a principal building and permit such accessory building within five feet (5') of the principal structure. Such waiver shall only be granted when the accessory building is not designed or intended to store or contain any flammable liquid or vehicles or equipment containing flammable liquids; or where the accessory building is constructed with a fire wall as if it were attached to the principal building. The zoning administrator shall consider the health, safety, general welfare, and aesthetics of the proposed construction before granting such a waiver.

(2) Balconies.

(3) Central air conditioning compressor provided that the air conditioning compressor is located no more than five feet (5') from the principal building and is located no closer than two feet (2') to a lot line. Air conditioning compressors shall not be located or extend into the front yard area.

(4) Covered patios or decks.

(5) Enclosed porches.

(6) Private garages (detached):

(A) Detached garages are permitted on an interior lot line (i.e., zero lot line).

(B) Detached garages that are alley loaded shall be set back a minimum of four feet (4') from the rear lot line.

(C) Detached garages that are loaded from a street may be located on the rear lot line.

(D) Detached garages shall be located a minimum of ten feet (10') from the principal building and any other accessory building or structure.

(E) Detached garages shall not extend into the front yard area without planning and zoning commission approval.

(7) Carports provided that they are a supplement to a required attached or detached garage rather than a substitute for a garage. Detached carports shall be located at least ten feet (10') from the principal building and any other accessory building or structure. Carports shall not extend into the front yard area.

d. The zoning administrator may allow detached accessory buildings and structures to be located closer than ten feet (10') to a principle building if they are designed in such a manner to be attractive and constructed to meet all codes and requirements as though they were attached to the principal structure.

e. Accessory buildings and tool sheds one hundred twenty (120) square feet or less in area shall be placed on a pad of concrete, asphalt, or patio block. Accessory buildings greater than one hundred twenty (120) square feet in area shall be constructed on a foundation or concrete slab.

f. No more than one (1) accessory building one hundred twenty (120) square feet or less in area and one (1) accessory building larger than one hundred twenty (120) square feet in area shall be placed on any residential lot less than one (1) acre in area.

g. Material may be stored in the accessory yard setback area if a minimum five foot (5') high fence is constructed between the accessory structure and adjacent lot. No parking shall be permitted in the accessory yard setback area. The accessory yard setback shall be kept free from accumulation of debris or refuse. Only fences, drainage swales, utilities, and landscaping may be permitted within the accessory yard setback area.

C. Conditional Uses:

1. Conditional uses require a more detailed study prior to approval. The zoning administrator may require additional submittals in order to evaluate the potential effects of the use development.

Exhibit 8.3: Conditional Use Matrix

Conditional Use	*Residential Zones*		*Commercial Zones*		
	STR-1-SF	*STR-2-SF*	*MU-NC*	*MU-MSC*	*MU-CC*
Accessory dwelling unit	x	x	x		
Auditorium	x	x	x	x	x
Awnings	x	x	x	x	x
Bar			x	x	x
Bed and breakfast - <= 8 rooms	x				
Church or religious institution	x	x			
Day/child care – As regulated by state of NM (<=10 kids in residential zones)	x	x			
Drive-through facility				x	
Storage sheds > 200 sq. ft.				x	x
Home occupation (shall be exclusively regulated by title 3, chapter 4 of this code)	x	x	x	x	x
Outdoor café			x	x	x
Outdoor storage				x	x
Parking lot			x	x	x
Recreation service/center	x	x	x	x	x
Tiendita*	x	x			
Utilities (above ground structures)	x	x	x	x	x

* Tienditas require a conditional use permit and are only permitted on lands identified for such use on the original, recorded plat of the land. Additional tiendita uses will not be permitted if such use is not explicitly identified on the original plat.

2. In approving a conditional use, the zoning administrator shall consider the following:

a. The proposed use is appropriate and compatible in the specific location. Environmental impacts including, without limitation, noise, lighting, traffic and visibility effects generated as a result of the development are mitigated so that the effects on the adjoining properties are minimized;

b. The intent and principles of the STV1ZO are implemented by the approval of the proposed use at the proposed location; and

c. The proposed use meets the conditions outlined herein and in section 10-19-9 of this code.

D. New Uses: Any proposed permitted or accessory use currently not listed herein may be proposed by the applicant. If the zoning administrator recommends approval of such use, possibly with conditions, the proposed use shall then go through a formal text amendment process for ordinances mandated by §§ 3-17-1 through 3-17-6 NMSA 1978, as amended from time to time. (Ord. 2005-08, 12-6-2005)

10-19-9: **SPECIAL PROVISIONS:**

A. Applicability: The following regulations stipulate the provisions for allowance of variances to any structure or accessory structures for numerical standards such as set backs, floor area, height, and minimum open space.

B. Variances: Any development proposed that does not conform to any of the standards of development in this chapter must obtain a variance. A variance shall not be granted unless the variance is found to meet the requirements of subsection B6 below. In granting a variance, any reasonable conditions may be imposed to minimize any adverse effects the variance might otherwise have on property within the area of notification or on the development generally.

1. Applications For Variances: An application for a variance shall be submitted to the zoning administrator by the owner of the property that is the subject of the variance request or by the owner's agent. A completed copy of the application, an appropriate site plan that meets the criteria set forth in this chapter, and a non-refundable filing fee shall be submitted to the zoning administrator in accordance with subsection B3 below.

2. Administrative Variances: An administrative variance request may be granted by the zoning administrator. The zoning administrator may grant administrative variances under the following circumstances:

a. The variance would represent a deviation of ten percent (10%) or less from a numerical standard.

b. The zoning administrator finds that the request meets the standards set forth in subsection B6 below.

c. No written objections to the variance are received within fifteen (15) calendar days from the date that notice is provided as set out in subsection B3 below. The notice shall identify the property and state the nature of the variance requested, and shall also state that if no written objections to the variance are received within fifteen (15) calendar days of the date of the notice, the variance may be granted administratively without a hearing, and that if written objections are received within that fifteen (15) day period, the variance request will be submitted to the planning and zoning commission for a public hearing upon payment of the variance fee.

d. A denial by the zoning administrator under this paragraph may be appealed to the planning and zoning commission.

3. Application And Hearing Procedures:

a. Generally: A schedule of fees to be charged for variance applications under this section, which are designed to partially defray the costs of administering and enforcing this section, shall be established by resolution of the city council. Applications for requested variances shall be made according to the following procedures:

(1) Prospective applicants shall first confer with the zoning administrator, who shall initially review the proposed request and shall issue applications forms and methods prescribed by the zoning administrator.

(2) The applicant shall complete and submit the prescribed application forms provided by the zoning administrator in accordance with prescribed methods, along with the required non-refundable processing fee, in advance of the time and date established as the deadline.

(3) The zoning administrator shall review the application and after consultation with and review by other agencies as deemed appropriate by the zoning administrator shall prepare a recommendation to be presented within thirty (30) days before the planning and zoning commission. Said recommendation shall be supported and based on the provisions contained in this chapter and/or other applicable regulations.

(4) The zoning administrator may advise and make recommendations to the applicant in an effort to arrive at a favorable recommendation but will not prevent by any means the applicant from making his, her or its request. A recommendation not to approve shall be explained and made available to the applicant no less than five (5) days prior to the public hearing before the planning and zoning commission.

b. Public Hearing; Notice Requirements: Variances may become effective only after a public hearing has been held at which all interested parties and/or citizens shall have an opportunity to be heard. Signs, supplied by the zoning administrator, shall be posted a minimum of fifteen (15) days on at least four (4) corners of the subject property, to notify adjacent property owners of the proposed variance request. Notice of the time and place of the public hearing shall be published at least fifteen (15) days prior to the date of the hearing in a newspaper with general circulation in the jurisdiction of the city. Notice of the public hearing shall also be mailed by certified mail, return receipt requested to the owners, as shown by the records of the Dona Ana County Tax Assessor, of lots of land within one hundred feet (100') of and in every direction from the area under consideration, excluding distances devoted to public rights-of-way.

4. The zoning administrator shall submit all applications for variances that represent a deviation of more than ten percent (10%), along with the required site plan and the zoning administrator's findings of fact and recommendations, to the planning and zoning commission for the earliest hearing practicable.

5. A denial of a variance by the planning and zoning commission may be appealed to the city council.

6. The following findings are required for approval of any variance:

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

b. Granting of the variance is justified because there is a physical hardship or extraordinary economic hardship for the applicant resulting from the size, shape, existing structures, or topographical or other physical conditions on the site or in the area of notice.

c. Granting the variance will uphold the spirit and intent of this chapter and accomplish substantial justice.

C. Conditional Uses:

1. Accessory Dwelling Unit: Accessory dwelling units shall meet the following criteria:

a. The total dwelling area of such unit shall be no greater in size than one-third (1/3) of the total dwelling area of the single-family unit;

b. The total dwelling area of such unit shall be no greater in size than six hundred and fifty (650) square feet;

c. Legal title to such unit and single-family unit shall be held in the same name; and

d. Must comply with all requirements found in sections 10-10-1 and 10-10-2 and title 1, chapter 9 of this code.

2. Outdoor Café:

a. Outdoor cafés are permitted as a conditional use in the commercial zones, but shall also be considered for tienditas.

b. Outdoor cafés shall be allowed on private property without a conditional use permit.

c. Outdoor cafés shall be allowed in public right-of-way as long as:

(1) An encroachment permit is obtained in accordance with subsection F.

(2) The outdoor eating area is enclosed/separated from the public travel area via a low fence/wall.

(3) A minimum forty-two inch (42") clearance is maintained for pedestrian movement within the public walk-way.

(4) Adequate ingress and egress to the outdoor eating area is provided.

(5) Outdoor cafés serving alcohol meet all state standards and have adequate liquor license in place.

3. Tiendita:

a. Tienditas are only permitted on lands identified for such use on the original, recorded plat of the land. Additional tiendita uses will not be permitted if such use is not explicitly identified on the original plat.

b. Tienditas shall have specific hours of operation identified as a condition of the conditional use permit.

c. Tienditas shall not sell, store, fabricate, generate, or produce noxious materials that may constitute a hazard for adjacent uses and structures.

d. Operation of the tiendita shall not create a nuisance for adjacent residential uses from noise, overflow onto adjacent private properties, excessive vehicular movements and parking adjacent to the use, and other like nuisances.

4. Awnings:

a. Awnings are permitted as a conditional use in all the residential and commercial zones.

b. Awnings shall be allowed on private property without a conditional use permit.

c. Awnings shall be allowed in public right-of-way as long as:

(1) An encroachment permit is obtained in accordance with subsection F.

(2) The awnings do not protrude at a distance or height so as to create a danger to pedestrian or vehicular movement within the public walk-way or public right-of-way.

D. Temporary Uses: The purpose of this section is to identify specific temporary uses that may be conducted within listed zoning districts for certain time periods and under special conditions.

1. Submittal Requirements: To obtain a permit for a temporary use, the following information must be provided for the permit.

a. A description of the temporary use.

b. A site plan showing the location of all structures (both temporary and permanent) which includes the distance from these structures to the property lines and each other. Temporary structures must be at least five feet (5') from all side and rear property lines and at least fifteen feet (15') from property lines along a roadway. These structures shall not violate the clear sight triangle. These structures, excluding fences and signs, must be at least ten feet (10') from all other buildings on the property.

c. The site plan must also show the traffic circulation including parking spaces and driving aisles on the property. There shall be adequate room for traffic circulation around the temporary use. Temporary uses are not permitted to obstruct more than:

(1) Twenty-five percent (25%) of the parking area if there are twenty (20) parking spaces or less;

(2) Fifteen percent (15%) of the parking area if there are between twenty-one (21) and fifty (50) parking spaces;

(3) Ten percent (10%) of the parking area if there are more than fifty (50) parking spaces; and

(4) The temporary use shall not obstruct disabled accessible parking spaces.

d. The date the temporary use will start and end and the hours of operation.

e. The name and address of the property owner at the location of the temporary use. Property owners must consent in writing to the temporary use on their property.

2. Time Limitations:

a. Temporary uses are restricted to the time limits and zoning districts listed below.

b. Temporary uses not listed in this section shall be permitted for up to fourteen (14) calendar days at one (1) location in a calendar year. A single temporary use conducted for longer than the time limits stated in this section

for that use shall be considered a permanent use and shall comply with all municipal and other city code requirements.

(1) Carnival, amusement park or hall, circus: These uses are permitted for no more than fourteen (14) calendar days at a single location one (1) time in a calendar year (not including the time required to set up and take down the structures associated with the use). Permitted in MU-NC, MU-MSC, and MU-CC zones.

(2) Christmas tree stands: Sales of Christmas trees shall not occur before November 15 or after December 31. Permitted in MU-MSC and MU-CC zones.

(3) Community wide event: Temporary uses at the time of a community wide event are permitted to begin one (1) week (seven (7) calendar days) before the beginning of the community wide event and shall end three (3) calendar days from the last day of the community wide event. These temporary uses are permitted in addition to other types of temporary uses such as tent sales and outdoor sales and displays. Permitted in STR-2, STR-1, MU-NC, MU-MSC, and MU-CC zones.

(4) Firework stands: Sale of fireworks shall not occur before June 20 or after July 6. Sale of fireworks is also permitted three (3) calendar days preceding and including each of the following holidays: New Year's Day, Chinese New Year and Cinco de Mayo of each year. Permitted in MU-CC zone.

(5) Flea markets: Temporary flea markets shall operate for no more than thirty (30) calendar days at one (1) location in a calendar year. Permitted in MU-MSC and MU-CC zones.

(6) Kiddie ride carnival and exhibits: These uses shall be permitted for no more than fourteen (14) calendar days at a single location one (1) time in a calendar year. Permitted in MU-NC, MU-MSC, and MU-CC zones.

(7) Special events: These events shall be permitted for no more than fourteen (14) calendar days at a single location one (1) time in a calendar year. Permitted in MU-MSC and MU-CC zones.

(8) Temporary outside sales and displays: These types of sales and displays shall be permitted for no more than twenty-one (21) calendar days at a single location one (1) time in a calendar year. Permitted in MU-NC, MU-MSC, and MU-CC zones.

(9) Temporary stands: These uses are permitted for no more than three (3) months for the sale of seasonal merchandise and for no more than thirty (30) calendar days for nonseasonal merchandise. Permitted in MU-NC, MU-MSC, and MU-CC zones.

(10) Tent sales and activities: These types of sales and activities shall be permitted for no more than twenty-one (21) calendar days at a single location one (1) time in a calendar year. Permitted in MU-MSC, and MU-CC zones. The fire department has several requirements for tents which must also be met.

(11) 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 (4) calendar days, three (3) times at one (1) 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. This use is permitted in all zones.

3. Signs: Signs shall be regulated exclusively by this title, chapter 14.

E. Fences And Walls: Fences and walls are permitted accessory uses in all districts and are further regulated as follows:

1. Zoning Permit:

a. No fence or wall shall be constructed or altered until a zoning permit for such erection or alteration shall have been issued by the zoning administrator. Such permit shall be valid for a period of one hundred and eighty (180) days after which period the permit shall lapse and become void unless a building permit has been issued within said period and is not thereafter canceled. This zoning permit is a prerequisite for a building permit that must be obtained from Dona Ana County.

2. Fence and Wall Location:

a. No fence or wall shall be located in the front yard setback of the principal structure, unless required for grading between adjacent parcels and in that case shall be only tall enough as needed for grading/retaining purposes.

b. No fence in the vision clearance triangle shall exceed two and a half (2.5) feet in height above mean street grade.

c. All walls and fences shall require a building permit.

d. Walls and fences constructed as part of a master planned subdivision may be constructed straddling lot lines.

e. Retaining walls constructed after original development shall be located such that no part of the wall or footing is outside the property boundaries (i.e., no encroachment on adjacent property).

f. Retaining walls retaining more than thirty (30) inches of soil or other fill material and all walls exceeding seventy-two (72) inches in height shall be designed by a professional engineer licensed to practice in the state.

g. Fences shall be located outside of easement areas unless planning and zoning commission approval is granted to place a fence in or on the easement.

3. Fence And Wall Construction:

a. All structural and support components of a fence shall face away from adjacent properties.

b. All fences shall be constructed in such a manner and of such materials and colors as to not adversely affect the appearance of the neighborhood or adjacent property values.

c. Permissible fence and wall materials:

(1) Rock and mortar walls;

(2) Solid Masonry:

A. Brick and mortar;

B. Split-faced CMU; and

C. CMU must have integral earth tone color;

(3) Wrought Iron;

(4) Stucco (finish);

(5) Panelized system if reviewed and approved by the zoning administrator.

d. Prohibited Fence Materials/Colors:

(1) Smoothed faced CMU, unless covered with a stucco finish;

(2) Plain concrete colored CMU.

e. All walls shall have adequate footings such that they remain in a straight and plumb condition.

f. Chain link fences shall be allowed only in public recreational field/court conditions not perimeter boundaries or for civic use subject to the conditional use provisions in section 10-19-8C2.

4. Maintenance:

a. All fences and walls shall be maintained in good repair at all times. No signs or advertising shall be permitted on a fence or wall. No materials shall be stored between the fence/wall and the lot line.

F. Encroachments:

1. Encroachment Permits:

a. Person seeking to obtain encroachments into or onto public rights-of-way or other public property shall follow the following procedure:

(1) An application shall be submitted to the zoning administrator requesting an encroachment permit.

(2) The zoning administrator shall:

A. Prepare a staff report and forward to the city council;

B. Set a city council public hearing date;

C. Notify the public. Notification to occur through the posting of the city council agenda.

(3) The city council shall hear the comments in response to the application and shall either:

A. Approve;

B. Approve with additional conditions; or

C. Deny the application.

b. The zoning administrator shall notify the applicant within ten (10) days of the city council meeting of the final decision.

c. The issuance of an encroachment permit by the city council shall require the payment of a fee to be established by city council resolution. (Ord. 2005-08, 12-6-2005)

10-19-10: **PARKING REQUIREMENTS:**

A. Definitions:

AUDITORIUM: A large room to accommodate an audience in a building such as a school or theater, or, an indoor or outdoor facility to hold public meetings or performances.

ASSISTED LIVING:	A living arrangement in which people with special needs, especially seniors with disabilities, reside in a facility that provides help with everyday tasks such as bathing, dressing, and taking medication.
BACK-OUTS:	Additional area within a parking lot to adequately assist vehicles backing out of spaces with the proper turning radius.
CHURCH OR RELIGIOUS INSTITUTION:	A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship.
CLINIC:	A facility which is often associated with a hospital or medical school that is devoted to the diagnosis and care of outpatients.
DAY/CHILD CARE:	Child care center, group child care home, family child care home, preschool, nursery school, day nursery, kindergarten and similar uses shall be in accord with state licensing requirements.
DUPLEX:	One (1) building arranged, intended or designed to be occupied by two (2) families living independently of each other and having separate cooking facilities in each dwelling unit.
DWELLING UNIT, SINGLE-FAMILY ATTACHED (SFA):	A residential structure on a private lot or lots, which is attached to other units horizontally or vertically.
DWELLING UNIT, SINGLE-FAMILY DETACHED (SFD):	A residential structure on a private lot, detached from other units and designed for and occupied by no more than one (1) family for living purposes.
GROSS SQUARE FEET (GSF):	Total building area measured from outside walls. For example, a building that is sixty feet (60') by one hundred feet (100') would have a gross square footage of six thousand (6,000) square feet.
HOSPITAL:	An institution providing health services, primarily for inpatients, and medical or surgical care of the sick or injured, including as an

	integral part of the institution, such related facilities as laboratories, outpatient departments, training facilities, central service facilities and staff offices.
HOTEL/LODGING:	One (1) or more buildings providing temporary lodging primarily to persons who have residences elsewhere, or both temporary and permanent lodging in guest rooms, or apartments.
INDEPENDENT LIVING:	A living arrangement that maximizes independence and self-determination, especially of disabled persons living in a community instead of in a medical facility.
LANDSCAPE ISLAND:	Space reserved within a parking lot to contain landscaping.
LIBRARY:	A publicly operated facility housing a collection of books, magazines, multi-media, or other material for use by the general public.
LONG TERM PARKING/ STORAGE:	An area dedicated for the storage of household goods or the parking of boats, trailers, and other larger vehicles for a period of thirty (30) days or more.
MULTI-FAMILY:	Three (3) or more dwelling units attached with a common wall. Multi-family units may also have shared common amenities on the property.
MUSEUM:	A building, place, or institution devoted to the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value.
OFFICE:	Occupancy primarily for the provision of professional, executive, management, or administrative services; excluding, however, clinic or office, dental or medical. Typical uses include real estate offices, brokerage firms, legal offices, or architectural firms.
ON-STREET PARKING:	Areas within the right-of-way of a public street that is designated to parking. This parking is typically designed to be parallel or angled.

OPACITY: An object or group of objects that causes an area to be of obscurity or impenetrability.

PARKING LOT: An area provided for self-parking by employees, visitors, residents, and/or patrons of any public/institutional, commercial, industrial, or multi-family residential use.

RECREATIONAL VEHICLE:

A. Travel trailers, camping trailers, fifth-wheel trailers, and all other vehicles that are constructed to include a chassis, integral wheels and a towing hitch, and are primarily designed or constructed to provide temporary, readily moveable living quarters for recreation, camping, or travel uses.

B. Pickup campers, either mounted or non-mounted, or any structure designed to be mounted in the bed of a truck and providing living quarters for recreation, camping, or travel uses.

C. Chassis mount, motor home, mini-motor home or other recreational structure or vehicles constructed integrally with a truck or motor van chassis and incapable of being separated therefrom, and designed to be used for moveable living quarters for recreational, camping, or travel uses.

D. Recreational vans or converted and chopped vans or other vehicles which are either initially constructed or converted to contain living quarters for recreational, camping, or travel uses.

E. Trailers, boats, etc.

RESTAURANT (SIT DOWN): An establishment where food/drink is typically consumed on-site. This type of restaurant may include indoor or outdoor seating for serving and consumption of food on-site.

RESTAURANT (DRIVE THRU): An establishment where food/drink is consumed on or off-site. This establishment may include a drive thru operation where food/drink is purchased for off-site consumption.

RETAIL:	Sale to the ultimate consumer for direct consumption or use and not for resale.
SENIOR HOUSING/ASSISTED LIVING:	A living arrangement in which people with special needs, especially seniors with disabilities, reside in a facility that provides help with everyday tasks such as bathing, dressing, and taking medication.
SCHOOL, ELEMENTARY, MIDDLE, OR HIGH:	A public or private school meeting all requirements of the compulsory education laws of the state and providing instruction to students in kindergarten through grade twelve (12). Middle and high schools are generally grades seven (7) through twelve (12).
SPORTS FIELD:	This area is designated as recreational sporting facilities to include baseball, softball, or full size soccer uses.
YEAR ROUND LANDSCAPING:	Coniferous landscape material that does not lose its foliage. Foliage exists all year long.

B. Parking Spaces Required:

1. Residential:

a. Single-family dwellings:

(1) Single-family detached: 2 off-street spaces per dwelling;

(2) Single-family attached: 1.5 off-street spaces per dwelling on average;

(3) Two (2) car garages are required for all single-family detached residential dwellings;

(4) One (1) car garage is required for all single-family attached residential dwellings.

b. Multiple family dwellings/senior housing-Independent living:

(1) Studio or 1 bedroom = 1 off-street space;

(2) 2 bedrooms = 1.75 spaces;

(3) 3 bedrooms or more = 2.25 spaces;

(4) 0.5 spaces per unit for guest parking;

(5) On-street parking adjacent to the site can count toward guest parking.

c. Senior housing-assisted living:

(1) 0.5 spaces per dwelling unit;

(2) 0.2 spaces per unit for guest parking;

(3) 0.2 spaces per unit for employee parking;

(4) On-street parking adjacent to the site can count toward guest parking.

2. Non-residential Uses:

a. Auditorium: 1 space per 200 gsf;

b. Churches: 1 space per 5 seats;

c. Day/child care: 2 spaces, plus 1 additional space per 10 children, plus .75 space per every employee;

d. Hospitals: 2 spaces per room;

e. Library/museums: 1 space per 300 gsf;

f. Lodging: .75 space per room, 1 per employee;

g. Office: 1 space per 300 gsf;

h. Restaurants and clinics: 1 space per 200 gross square feet;

i. Retail/merchandising: 1 space per 300 gsf;

j. Schools: 1 space per teacher/staff member, and 1 space for every 5 students 16 years of age and older. Additional parking may be required if the facility has an auditorium or gymnasium - 1 space per every 5 seats;

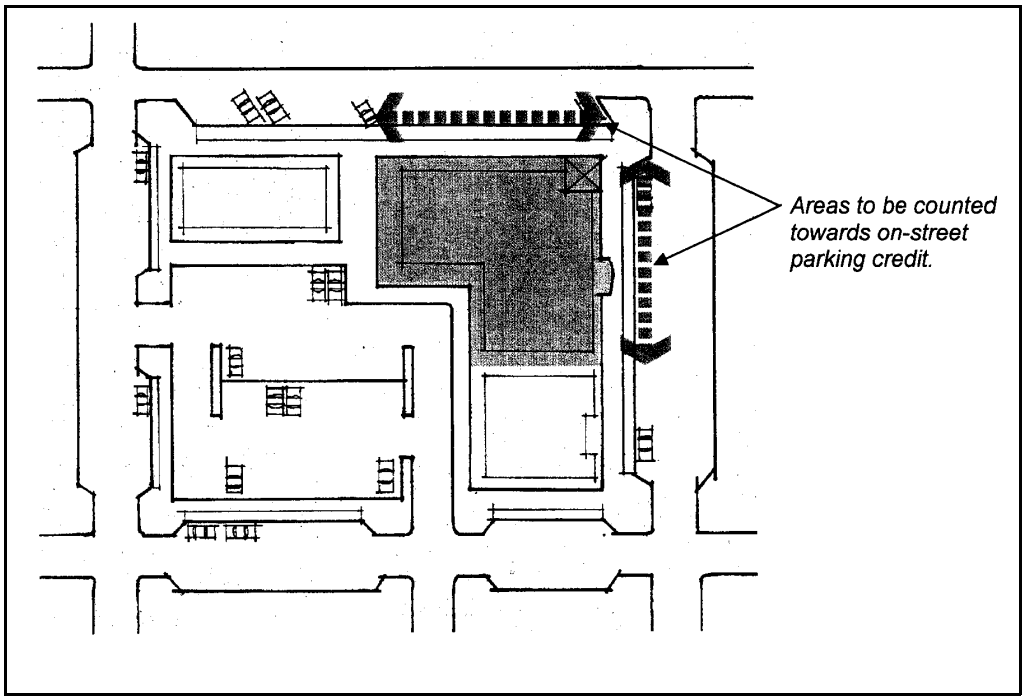
k. Sports field: 30 spaces per field.

3. On-Street Parking Credit:

a. Seventy-five percent (75%) of on-street parking on the side of the street immediate to any public street frontage of a use/building can be included towards the required parking count (see Exhibit 10.1) for the use/building fronting such on-street parking.

b. To receive credit for on-street parking, stalls shall meet the stall dimensional requirements and the street shall meet the city's design standards. In the event that the street is later widened, or the status changed to prohibit on-street parking, the use on the property will become legal nonconforming (see Exhibit 10.1).

Exhibit 10.1: On-Street Parking



4. Off-site Parking Credit (MU-NC And MU-MSC Zones Only):

a. Off-site parking ownership or current lease of parking spaces within a seven hundred fifty foot (750') radius measured from the perimeter boundary of the site dedicated to the use in question during its hours of operation shall be considered towards parking requirement.

b. This off-street parking credit should only account for no greater than fifty percent (50%) of the total required spaces.

c. The zoning administrator shall have the authority to approve such a parking strategy, through a zoning permit, that ultimately meets the parking requirements identified in subsection B1 and provided for via adjacent off-street parking or via subsection B3 through B5.

d. The uses upon which the parking agreement/lease is approved shall not be changed without the zoning administrator's approval.

e. Dedicated parking spaces via lease or the shared parking agreement shall be established for off-site spaces.

f. Divesting ownership or terminating lease of the required parking spaces shall result in termination of the zoning permit until the deficiency is rectified.

5. Shared Parking:

a. To reduce the amount of land dedicated to parking lots, an applicant may propose a parking strategy using shared parking and differential time use.

b. The minimum lease for this parking agreement would be five (5) years.

c. The zoning administrator shall have the authority to approve such a parking strategy, through a zoning permit, that ultimately meets the parking requirements identified in subsections B1 through B4 above, after determining that adequate parking is provided for the proposed uses.

d. The uses upon which the parking agreement/lease is approved shall not be changed without the zoning administrator's approval.

e. Divesting ownership or terminating lease of the required parking spaces shall result in termination of the use permit until the deficiency is rectified.

C. Parking Lots:

1. Location:

a. Parking lots shall in general be located behind the principal building.

b. Parking lots shall be set back a minimum of six (6) feet from a public street to accommodate adequate screening.

2. Surfacing:

a. All off-street parking areas and aisles shall be graded and surfaced to be properly drained.

b. Parking areas shall be paved with concrete or asphalt surfacing, or with special paving materials such as brick.

3. Landscaping:

a. All off-street parking areas which serve twenty (20) vehicles or more shall be provided with landscape islands within the parking lot totaling not less than five percent (5%) of the surfaced area.

b. The minimum size of each landscape island shall be one hundred seventy (170) square feet (see Exhibit 10.2).

c. Landscape islands shall consist of trees, shrubs and other low water plantings (see Exhibit 10.3).

d. Any landscape island less than one hundred seventy (170) square feet shall not count towards the requirement.

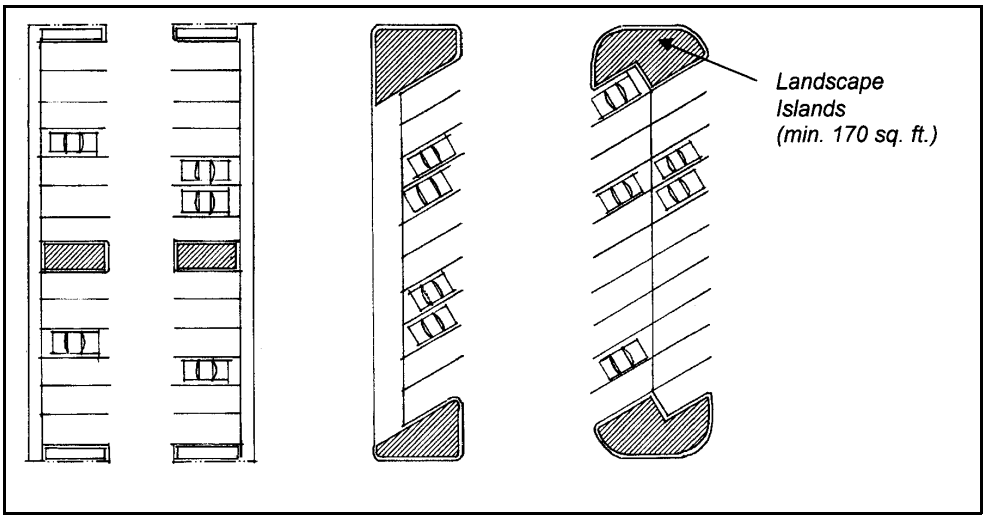
e. One (1) canopy tree shall be provided for every fifteen (15) parking spaces.

f. Canopy trees must be evenly distributed throughout the parking lot.

g. In areas where a canopy tree would be located in the landscape buffer adjacent to a sidewalk/parkway, up to fifty percent (50%) of the street trees immediate to the lot may be counted towards the minimum parking lot tree requirement.

h. Structurally covered or underground motor vehicle parking spaces are not included in calculating the required number and location of canopy trees.

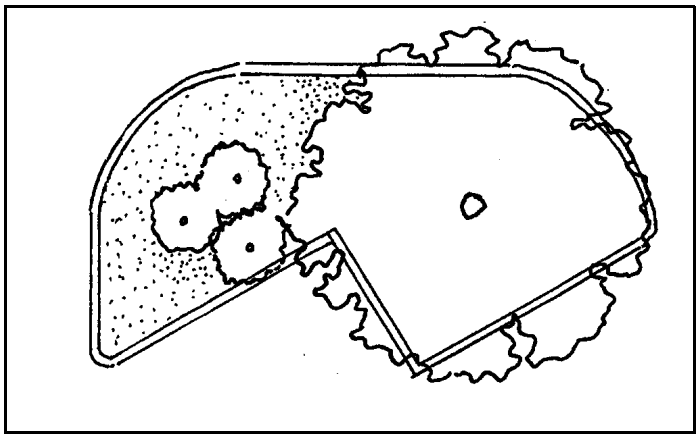
Exhibit 10.2: Landscape Island



September 2007

City of Sunland Park

Exhibit 10.3: Landscaped Island Example



4. Screening:

a. All commercial and multi-family parking lots shall be screened from all adjacent residential uses.

b. Screening shall be between thirty inches (30") and forty-two inches (42") in height.

c. Low masonry walls, fences, and/or landscaping that provides minimum seventy-five percent (75%) opacity for the length of the screening counts as screening.

d. All landscape screening shall be year-round.

5. Size Of Parking Stalls And Drive Aisles:

a. The minimum dimensional requirements for parking stalls and driving aisles are shown in the following table (Exhibit 10.4).

Exhibit 10.4: Parking Stall Requirements

Parking Angle	***Stall Width***	***Stall Length***	***Stall Base***	***Stall Depth***	***Width of One-Way Aisle***	***Width of Two-Way Aisle***
30°	9'	19'	18'	17.3'	11'	24'
45°	9'	19'	12.7'	19.8'	13'	24'
60°	9'	19'	10.4'	21'	18'	24'
90°	9'	20'	9'	20'	24'	24'
0° (parallel)	9'	22'	22'	9'	12'	22'

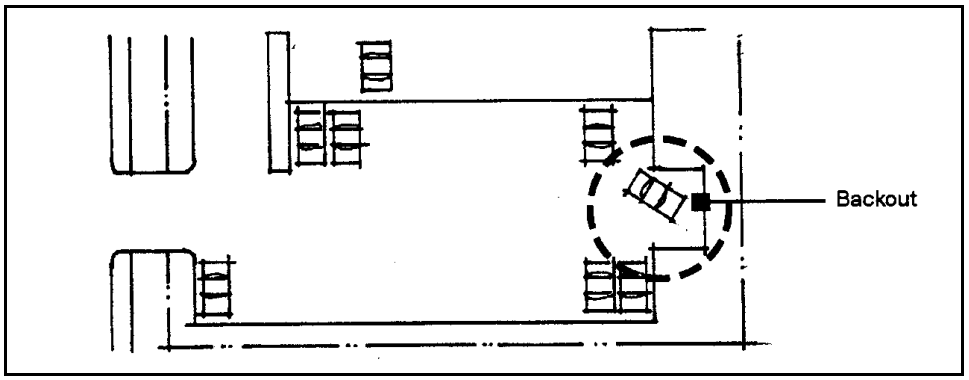
b. General Notes:

(1) All angle parking, except ninety (90) degree and parallel parking, shall have aisles designed for one-way traffic flow only, except that two-way traffic is permitted where angled and ninety (90) degree parking share a drive lane and as reviewed and approved by the zoning administrator.

(2) All parking lot designs shall have primary ingress and egress to a public street, access easement or alley.

(3) Circulation within a parking lot shall be designed to minimize aisles with one (1) inlet/outlet. Aisles with only one (1) inlet/outlet shall provide "back outs" for end spaces. (see Exhibit 10.5)

Exhibit 10.5: Back Outs



(4) All parking spaces abutting walkways and buildings shall provide parking stops.

(5) All off-street parking areas must comply with State of New Mexico Accessibility requirements and with the Americans with Disabilities Act (ADA).

D. Parking Storage: The long-term parking or storage of: boats/recreational vehicles, semi-tractors and semitrailers, and construction vehicles and equipment (except during periods of permitted construction activity and/or deliveries) is prohibited in the MU-NC, MU-MSC, MU-CC, STR2 and STR-1

zones. (Ord. 2005-08, 12-6-2005)

TITLE 11
SUBDIVISION REGULATIONS

Subject Chapter

Title; Purpose; Definitions 1
General Provisions 2
Administration And Enforcement 3
Design Standards 4
Requirements Outside City Limits 5
Platting Requirements 6
Improvements 7
Variances 8

City of Sunland Park

CHAPTER 1
TITLE; PURPOSE; DEFINITIONS
SECTION:
11-1-1: Title
11-1-2: Purpose
11-1-3: Jurisdiction And Applicability
11-1-4: Definitions

11 -1 -1: TITLE: For the purpose of this Title these requirements may be referred to as the land subdivision regulations of the City. (Ord. 1984-09, 6-5-1984)

11-1-2: PURPOSE: These land subdivision regulations are adopted and shall be invoked to provide for harmonious development of the City and its environs; to coordinate streets within subdivisions with other existing or planned streets or with other features of the proposed Master Plan of the City and of the territory lying within three (3) miles of the City; to provide for adequate open spaces for traffic, recreation, drainage, light and air; and to provide for a distribution of population and traffic which will tend to create conditions favorable to health, safety, convenience, prosperity or general welfare. (Ord. 1984-09, 6-5-1984)

11-1-3: JURISDICTION AND APPLICABILITY: The land subdivision regulations shall be applicable to all of the territory within the present Municipal boundary of the City, and all territory within three (3) miles of such present Municipal boundary, and shall be under the jurisdiction of the Planning and Zoning Commission and the Governing Body. If annexation of land to the City should occur, these regulations automatically apply to the annexed land and that land lying up to three (3) miles therefrom. (Ord. 1989-08, 12-6-1989)

11-1 -4: DEFINITIONS: The following words and phrases appearing in these land subdivision regulations will be defined and interpreted as are set forth below. For this purpose, the singular includes the plural and the plural includes the singular; the words "shall" and "will" are mandatory the word "may" is permissive, and the masculine gender includes the feminine gender.

ALLEY:
A public way used primarily as a service access to the rear or side of a property which abuts on a street.

ARTERIAL:
A major street or thoroughfare that carries, or will carry, a considerable volume of traffic of more than neighborhood character and also serves abutting properties.

BLOCK:
The distance measured along a street between intersecting streets from center line to center line; and where the context requires, it also means the enclosed area within the perimeter of the streets or property lines enclosing it.

BUILDING OR SETBACK LINE:
A line on a plat between which line and a street no building may be erected.

CITY: CLERK-TREASURER: COLLECTOR STREET:
The City of Sunland Park, New Mexico. City Clerk-Treasurer of the City.
A street of relatively short length that serves as a connection between a major or secondary thoroughfare and several minor streets. The term includes the principal entrance streets of a residential development and streets for major circulation within such a development.

DRAINAGE COURSE:
The City Planning and Zoning Commission.
A minor street with only one outlet and culminated by a turnaround at the dead end.
A natural watercourse or indenture for the drainage of surface waters.

COMMISSION: CUL-DE-SAC:

EASEMENT: A grant by the property owner of the use, for a specific purpose, of a strip of land by the general public, a corporation, or a certain person or persons.
EXPRESSWAY OR FREEWAY: A high capacity and high speed major thoroughfare with partially or fully controlled access to abutting properties.
LOT: The City Council of the City of Sunland Park.
MAJOR THOROUGHFARE: One which consists of not less than fifty (50) acres of land, all of which lies in a contiguous and integrated tract.
MARGINAL ACCESS STREET: A portion of a subdivision or other parcel of land intended for the purpose, whether immediate or future, of transfer of ownership or for building development.
MINOR, OR LOCAL, RESIDENTIAL STREET: A street of considerable length that carries, or that planning evidence indicates will carry, a large volume of traffic, and is usually planned in conjunction with State or Federal agencies and is not to serve immediately abutting properties.
A street adjacent to a major thoroughfare which provides access from the thoroughfare to abutting properties.
The Comprehensive Plan of the City of Sunland Park, New Mexico.
A street of relatively short length that provides direct access to an industrial district and is designed to discourage its use by through traffic.
A street of relatively short length that provides direct access to a limited number of abutting residential properties and is designed to discourage its use by through traffic.
GOVERNING BODY:
LARGE SCALE DEVELOPMENT:
MASTER, OR COMPREHENSIVE PLAN:
MINOR INDUSTRIAL OR COMMERCIAL STREET:
City of Sunland Park

11-1-4 11-1-4

PERFORMANCE BOND: A surety bond or cash deposit made out to the City of Sunland Park in an amount equal to the full cost of the improvements which are required by this Title, said cost being estimated by the City of Sunland Park and said surety bond or cash deposit being legally sufficient to secure that the said improvements will be constructed in accordance with this Title.

PLAT: Map, chart, survey, plan or replat certified by a licensed registered land surveyor which contains a description of the subdivided land with ties to permanent monuments.

RESUBDIVISION: Adjustment of platted lot lines for the purpose of increasing or reducing the size of contiguous lots, but to not less than the City minimum size.
ROADWAY: That portion of the street available for vehicular traffic and where curbs are laid, the portion from back-to-back of curbs.
STREET: All properties dedicated or intended for public or private use for access to abutting lands or subject to public easements therefor, and whether designated as a street, highway, thoroughfare, parkway, throughway, expressway, road, avenue, boulevard, lane, place, circle, or however otherwise

designated.

STREET WIDTH: The distance between the lot lines measured at right angles to the street center line.

For the purpose of approval by the City means:

SUBDIVIDE OR SUBDIVISION: For the area of land within the corporate boundaries of the City, the division of land into two (2) or more parts by platting or by metes and bounds description into tracts for the purposes numbered below; and

For the area of land within the City extra territorial subdivision and platting jurisdiction, the division of land into two (2) or more parts by

platting or by metes and bounds description into tracts of less than five (5) acres in one calendar year for the purposes numbered below.

1. Sale for building purposes;
2. Laying out any part of the City;
3. Adding to the City;
4. Laying out suburban lots; or
5. Resubdivision.

SUBDIVIDER:

SUBDIVISION TYPE 1:

SUBDIVISION TYPE 2:

SUBDIVISION TYPE 3:

The term means any person, individual, firm, partnership, association, estate, corporation, trust, or any other group or combination acting as a unit, dividing or proposing to divide land so as to constitute a "subdivision" as defined herein and includes any agent of the subdivider.

Any subdivision outside the City containing five hundred (500) or more parcels, any one of which is less than five (5) acres in size.

Any subdivision outside the City containing not less than twenty five (25) but not more than four hundred ninety nine (499) parcels, any one of which is less than five (5) acres in size.

Any subdivision outside the City containing not less than two (2) but not more than twenty four (24) parcels, any one of which is less than five (5) acres in size.

(Ord. 1984-09, 6-5-1984; amd. Ord. 1993-12, 12-28-1993; 2000 Code)

CHAPTER 2

GENERAL PROVISIONS

SECTION:

11-2-1: Platting Requirement
11-2-2: Location Map And Sketch Plan
11-2-3: Preliminary Plan Approval
11-2-4: Final Plat Approval
11-2-5: Suitability Of Land
11-2-6: Large Scale Development Standards
11-2-7: Donation Of Water Rights To City

11-2-1: PLATTING REQUIREMENT: It shall be unlawful for the owner, agent, or persons having control of any land within the corporate limits of

the City or within three (3) miles from its corporate limits, to subdivide or layout such land into lots, blocks, streets, avenues, alleys, public ways and grounds unless by plat in accordance with the laws of the State and this Title; provided, however, a resubdivision by description is authorized pursuant to Section 11-6-3 of this Title. (Ord. 1984-09, 6-5-1984)

11-2-2: LOCATION MAP AND SKETCH PLAN: Before preparation of a preliminary plan, the subdivider shall first submit four (4) prints of a location map to the Planning and Zoning Commission for review and advice concerning the relation of the Comprehensive Plan of the City to the proposed subdivision. At the option of the subdivider, he may also submit a rough sketch showing in general his proposed layout of the proposed subdivision for general comment of the Commission.

A. The location map shall consist of data added to an existing base map such as a United States Coast and Geodetic Survey, City or County base map, covering an area of at least one mile radius from the tract proposed for development.

B. The location map shall show the following information:

1. The outline of the area to be subdivided with approximate boundary dimensions.
2. Existing streets and roads and principal utility lines and storm drainways on adjoining properties to service the area.
3. North point, scale and date.
4. Total acreage within proposed subdivision.
5. Title of proposed subdivision; names and addresses of subdivider, land planner, engineer and land surveyor. (Ord. 1984-09, 6-5-1984)

11-2-3: PRELIMINARY PLAN APPROVAL: After review of the location map and sketch plan, the subdivider shall file in the office of the City Clerk-Treasurer ten (10) prints of a preliminary plan for reference by the Commission and other officials. (Ord. 1984-09, 6-5-1984)

11-2-4: FINAL PLAT APPROVAL:

A. Submit To Commission: After approval of the preliminary plat by the Commission, the final plat shall again be submitted to the Commission for its recommendation of approval.

B. Provide For Improvements: The subdivision shall provide for the required public improvements according to the method required under Chapter 7 of this Title and the plat shall be submitted to the City Council for final approval, all as provided in Chapter 7 of this Title.

C. City Council Approval Required; Filing With County: No plat shall be recorded in the office of the County Clerk unless and until the approval of the City Council has been endorsed thereon by the Mayor and Clerk-Treasurer; and no lot shall be sold from such plat unless and until the plat is approved by the City Council and filed for record in the office of the County Clerk.

D. City And County Approval: Any subdivision lying within the platting jurisdiction of both the City and Dona Ana County shall also be approved by the Board of County Commissioners in accordance with

New Mexico Statutes Annotated section 3-20-9, as amended. (Ord. 1984-09, 6-5-1984)

11-2-5: SUITABILITY OF LAND: No location map or preliminary plat shall be approved if, considering the best interests of the public, the site is not suitable for plat and development purposes of the kind proposed by reason of flooding or adverse earth or rock formation. Lots subject to flooding and lots deemed uninhabitable because of adverse earth or rock formation shall not be platted for residential occupancy, nor for such other uses as may increase

danger to health, life or property or cause an additional flood hazard (not compensated for by the drainage plan) to such property or to other properties adjacent thereto, or which may be affected thereby, but such land within a plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation or shall not produce unsatisfactory living conditions. (Ord. 1984-09, 6-5-1984)

11-2-6: LARGE SCALE DEVELOPMENT STANDARDS: The standards and requirements of the City subdivision ordinances may, by the granting of variances, be modified by the City Council in the case of a plan and program for a new town, a complete community, or a neighborhood unit, which, in the judgment of the City Council, provides adequate public spaces and improvements for the circulation, recreation, light, air, and all City service needs of the tract when fully developed and populated, and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the plan. (Ord. 1993-12, 12-28-1993)

11-2-7: DONATION OF WATER RIGHTS TO CITY:

A. Responsibility Of Subdivider: The City does not own or control sufficient rights in surface or underground potable water to supply the needs of the existing population of the City. The City does not have the financial ability to purchase water rights sufficient to meet this need. In order to meet the need for additional water rights, sufficient to supply water to residents and commercial users in areas subdivided pursuant to this Title, as amended, subdividers must provide those rights.

B. Submitted Requirements: At the time of submission of a preliminary plan or pursuant to the alternative summary procedure, at the time of submission of a plat or instrument of conveyance submitted in lieu of a plat, the subdivider shall submit:

1. A comprehensive study acceptable to the City Engineer, performed by a licensed professional engineer (his professional fees paid by the subdivider) indicating the maximum amount of water rights necessary to meet the projected consumption in the proposed subdivision when fully developed. Such a study shall be based on actual uses and historical trends in the Southern Dona Ana County, City of El Paso area; or

2. In the alternative, a subdivider may request such a study be done by the City Engineer and in that event the subdivider shall reimburse the cost of the study to the City.

C. Dedication Of Water Rights To City: The subdivider, as a condition of final plat approval, or as a condition of acceptance of the plat or instrument of conveyance submitted in lieu of a plat, shall dedicate to the City and quit claim all further right, title or interest in sufficient water rights to meet the maximum water rights necessary as indicated by the study.

D. Petition For Special Exception:

1. In the event a subdivider of land desires to subdivide into ten (10) or fewer lots and is unable to dedicate to the City sufficient water rights to meet the requirements herein, the subdivider may petition the City Council for a special exception to this requirement based on hardship.

2. If the subdivider petitions the City Council and shows to the satisfaction of the Council that the land being subdivided is served by paved streets, curbs and gutters at all access points and in all interior streets and with City water and sewer services installed to the property and in all interior streets and is served with service lines and facilities adequate to serve the proposed use, the City Council may waive the requirement to provide water rights if such subdivision consists of ten (10) lots or less.

3. Notwithstanding anything to the contrary in the foregoing exception, however,

the City Council may deny any application for special exception where it appears to the City Council that a subdivider or owner or successive subdividers or owners are forming tracts of land into sizes that will accommodate ten (10) or fewer lots so as to avoid the requirement of providing water rights. (Ord. 1993-02, 3-22-1993)

CHAPTER 3

ADMINISTRATION AND ENFORCEMENT

SECTION:

11-3-1: Approval Necessary For Utility Service
11-3-2: Alternate Summary Procedure
11-3-3: Fees
11-3-4: Penalty

11-3-1: **APPROVAL NECESSARY FOR UTILITY SERVICE:** Until a final plat has been approved by the Governing Body, any official of the City or public utility company who shall serve or connect the land within the subdivision with any public utility such as water, sewer, electric or gas is guilty of a misdemeanor. (Ord. 1984-09, 6-5-1984)

11-3-2: **ALTERNATE SUMMARY PROCEDURE:**

A. Conditions Of Approval: The City Clerk-Treasurer, upon recommendation by the City Engineer, is hereby authorized to approve and sign certain subdivision plats as follows:

1. Subdivisions of not more than two (2) parcels of land; or

2. Resubdivisions, where the combination or recombination of portions of previously platted lots does not increase the total number of lots; or

3. Subdivisions of two (2) or more parcels of land in areas zoned for industrial use.

B. Endorsement: Any subdivision approved as authorized in this Section shall be in substantial conformity with this Title. Approval by this summary procedure shall be endorsed on the plat or on the instrument of conveyance in lieu of a plat and such approval shall be conclusive evidence of the approval of the Commission. (Ord. 1984-09, 6-5-1984)

11-3-3: **FEES:** Since the Municipal administrative staff will be involved in plan review, plat review, advertising, notification, attendance at public hearings, property investigations and other activities involving or incidental to processing of subdivisions, a fee intended to partially defray those costs will be charged in accordance with the following schedule: (Ord. 1984-09, 6-5-1984; amd. Ord. 2005-02, 4-5-2005; amd. Ord. 2006-11, 11-7-2006)

A. Preliminary Plan:

1. Upon submission of a preliminary plat, the engineer for the subdivider shall submit a list of all public improvements to be constructed in or adjacent to, or serving the proposed subdivision by the subdivider.

2. The subdivider shall pay to the City, upon submission of the preliminary plat, a fee in an amount equal to four percent (4%) of the estimated cost of construction of such public improvements.

3. An additional fee in an amount equal to three percent (3%) of the estimated cost of construction of such public improvements shall be paid prior to beginning any construction on the public improvements.

4. Four percent (4%) shall be used by the City to defray its costs related to the subdivision review and approval process.

5. An additional review fee shall be charged if and when a subdivider makes major design changes or layout changes in his plans that must be reviewed again, or if more than three (3) reviews are necessary due to carelessness or neglect of the subdivider or his agents.

6. The three percent (3%) fee shall be used by the City to defray costs of inspections of construction of the public improvements as they are constructed.

B. Alternate Summary Procedure: The subdivider shall pay a fee of one hundred dollars ($100.00) upon application for approval by the City Clerk-Treasurer of a plat falling under the provisions of Section 11-3-2 of this Chapter. (Ord. 1984-10, 7-17-1984; amd. Ord. 2005-02, 4-5-2005; amd. Ord. 2006-11, 11-7-2007; amd. Ord. 2006-11, 11-7-006; amd. Ord. 2012-04, 9-5-2012)

1 1 -3-4: PENALTY: Whoever being the owner, or agent of the owner, of any land located in the City or within three (3) miles of the City, transfers, sells, or agrees to sell or negotiates to sell such land by reference to any exhibition of or by other use of a plat or subdivision of such land before such plat has been approved as herein provided for in this Title and recorded in the office of the Dona Ana County Clerk, shall be deemed guilty of a misdemeanor. Upon conviction, he shall forfeit and pay a penalty of one hundred dollars ($100.00) for each lot so transferred or sold, or agreed, or negotiated to be sold. The City, through its attorney or other official designated by the Governing Body, may enjoin such transfer or sale or agreement by action for injunction or may recover the penalty by civil action. (Ord. 1984-09, 6-5-1984)

CHAPTER 4
DESIGN STANDARDS
SECTION:
11-4-1: 11-4-2: 11-4-3: 11-4-4: 11-4-5: 11-4-6: 11-4-7:
Streets And Alleys
Size Of Blocks
Arrangement Of Lots
Public Use And Service Areas Open Space Recreational Areas Easements For Utilities Drainage Courses
11-4-1: STREETS AND ALLEYS:
A. Minimum Requirements For Streets And Alleys:
1. Conformity To Thoroughfare Plan: The location and width of all streets shall conform to the latest Comprehensive Plan and to the provisions herein.
2. Street Right-Of-Way Widths: The minimum street right-of-way width shall be shown on the Thoroughfare Plan Map or, if not shown on such Plan, shall be not less than fifty feet (50') wide.
B. Additional Width Of Existing Or Planned Streets: Subdivisions that adjoin existing or planned streets shall dedicate the right of way as necessary to meet the minimum street width requirements set forth in this Section as follows:
1. Both Sides Of Street: The entire additional right of way shall be provided where the subdivision is on both sides of the street. (Ord. 1984-09, 6-5-1984)
2. One Side Of Street; Land Dedication: When the subdivision is located on only one side of an existing or planned street, as shown on the Thoroughfare Plan, the subdivider shall secure from the

adjacent property owner dedication of land necessary to provide the entire street right of way to the City. In lieu thereof, the subdivider shall reimburse the City its cost of purchase or condemnation of the additional street right of way from the adjacent landowner which shall include all costs and attorney fees therefor. Prior to final plat approval, the subdivider shall make an adequate cash deposit or other satisfactory arrangement with the City to cover such costs. Such satisfactory arrangement may include return of the cash deposit or release of any security in the event the adjacent landowner should donate such right of way. (Ord. 1984-10, 7-17-1984)
C. Restriction Of Access: When a subdivision or portion thereof adjoins a major thoroughfare, no single-family residential lot shall have direct access thereto. Said lots shall be provided with frontage on a marginal access street or street other than a thoroughfare with adequate depth for screen planting of the portion of any such lot contiguous with said major thoroughfares. (Ord. 1984-09, 6-5-1984)
D. Street Grades: Grades on a major thoroughfare shall not exceed five percent

(5%). Grades on other streets shall not exceed ten percent (10%). Minimum grades on all streets shall be 0.30 percent. (Ord. 1984-09, 6-5-1984; amd. Ord. 1984-10, 7-17-1984)

E. Street Curves:

1. Horizontal Curves: Where a deflection angle of more than ten degrees (10°) in the alignment of a street occurs, a curve of reasonably long radius shall be introduced, as follows: on streets sixty feet (60') or more in width, the center line radius of curvature shall be not less than three hundred feet (300'); on other streets not less than one hundred feet (100'). (Ord. 1984-09, 6-5-1984)

2. Vertical Curves: Design standards for changes in grade shall be determined by the more stringent of the following standards:

a. All changes in grade shall be connected by vertical curves of minimum length in feet equal to fifteen (15) times the algebraic difference in rates of grade for major thoroughfares and one-half (1/2) this minimum length for other streets.

b. The minimum length of a vertical curve in a street shall be determined by the larger of two (2) values, one being fifteen (15) times the algebraic difference in the rates of grade for major thoroughfares and one-half (1/2) this minimum length for other streets

as set out in subsection E2a above, the other being three (3) times the design speed of the street in question. Profiles of all streets showing natural and finished grades drawn to a scale of not less than one inch equals one hundred feet (1" = 100') horizontal, and one inch equals twenty feet (1" = 20') vertical, shall be required of the subdivider.

F. Intersections: Street intersections shall be as nearly at right angles as is possible, and no intersection shall be at an angle of less than seventy five degrees (75°). Four (4) way intersections shall be discouraged in residential areas.

G. Street Jogs: Street jogs with center line offsets of less than three hundred feet (300') shall not be allowed, whether between two (2) proposed streets or between an existing and a proposed street. (Ord. 1984-10, 7-17-1984)

H. Dead-End Streets:

1. Minor residential streets that are also dead-end streets shall be no more than five hundred feet (500') long unless necessitated by topography. They shall be provided at the closed end with a turnaround having an outside roadway diameter of at least eighty feet (80') and a street right-of-way diameter of one hundred feet (100').

2. Where it is necessary to provide for street access to adjoining property not yet subdivided, proposed streets shall be extended by dedication to the boundary of such unsubdivided property. Such temporary dead-end streets shall be provided with a temporary turnaround having a roadway diameter of at least eighty feet (80').

Private Streets And Reserve Strips: Every subdivided lot shall be served from a publicly dedicated street. There shall be no reserve strip controlling access to streets, except where the control of such strip is definitely placed with the City under conditions approved by the Governing Body.

J. Street Names: A proposed street which is in alignment with and joins an existing and named street shall bear the name of the existing street. In no case shall the proposed name of a street duplicate the name of an existing street within the area covered by this Title. The use of a suffix "street", "avenue", "boulevard", "drive", "place", "court" or similar description shall not be a distinction sufficient to constitute compliance with this Title. In general, northwest trending

right of way shall be called "street", while northeast trending ones shall be called "trail". Dead-end rights of way shall be called "court".

K. Alleys:

1. Alleys twenty feet (20') wide shall be provided to the rear or side of all lots to be

used for commercial or industrial uses.
2. Alleys may be required by the Commission in apartment or multifamily subdivisions.
3. Dead-end alleys shall not be allowed; "L" shaped alleys shall be bevelled twenty five feet (25') at the inside of the "L". (Ord. 1984-09, 6-5-1984)

11-4-2: SIZE OF BLOCKS:

A. Block length shall not be less than four hundred feet (400') nor more than one thousand two hundred feet (1,200') measured along the greatest dimension of the enclosed block.

B. In blocks over eight hundred feet (800') in length, the Commission may require one or more public crosswalks or right of way not less than ten feet (10') in width to extend entirely across the block and at locations deemed necessary at intervals not closer than four hundred feet (400').

C. Block width shall be sufficient to allow two (2) tiers of lots of a minimum depth of one hundred feet (100') for each tier. (Ord. 1984-09, 6-5-1984)

11-4-3: ARRANGEMENT OF LOTS:

A. Side lot lines shall be at right angles to straight street lines or radial to curved street lines.

B. Each lot must front upon a public street not less than fifty feet (50') in width.

C. Lot dimensions shall conform to the requirements of the Official Zoning Ordinance; provided, that the depth of a lot shall not exceed three (3) times the width.

D. Corner lots for residential use shall have extra width to permit appropriate building setback from both streets.

E. Lots with double frontage shall be avoided except where necessary when single-family residential development abuts arterial streets. (Ord. 1984-09, 6-5-1984)

11-4-4: PUBLIC USE AND SERVICE AREAS: Due design consideration shall be given to the allocation of areas suitably located and of adequate size for playgrounds and parks for local or neighborhood use as well as public service areas. Specific consideration shall be given to corners, islands or other special locations designed for school bus loading purposes. (Ord. 1984-09, 6-5-1984)

11-4-5: OPEN SPACE RECREATIONAL AREAS:

A. Land Dedication: Where proposed adequate open space for recreation is shown on the Comprehensive Plan and it is located in whole or in part in the proposed subdivision, as a condition of final plat approval, the subdivider shall dedicate such land or part thereof to the City without charge for recreational purposes. Fee vests in the City if within the City and in the County if outside the City.

B. Fee In Lieu Of Land: In the alternative, the subdivider may propose and the Commission may negotiate payment of a fee to be held in trust by the City for use in maintaining or improving recreational facilities to be used for the benefit of residents of the proposed subdivision and for no other purpose. In lieu of such fee, Commission approved improvements by the subdivider to existing or proposed recreational areas serving residents of the proposed subdivision and the areas in the City may be negotiated by the Commission and the subdivider. In the event a reasonable compromise is not agreed to by the Commission and the subdivider, the Commission shall require as a condition of final approval that such land be reserved and not developed for a period of five (5) years from the date of final approval by the Governing Body so that within that time, the City, the County or other public agency may acquire said land for park purposes in the manner provided by law. If not then so acquired, or a petition for condemnation filed whichever is latter, the restriction shall expire. (Ord. 1984-09, 6-5-1984)

11-4-6: EASEMENTS FOR UTILITIES:

A. Except where alleys are provided for the purpose, utility easements not less than ten feet (10') in width shall be provided along rear or side lot lines where necessary for use in erecting, constructing and maintaining poles, wires, conduits, storm sewers, sanitary sewers, surface drainage, gas mains, water mains, electrical lines and other public utilities reasonably required for an urban structure. Utility companies are to be contacted by the City Clerk-Treasurer to determine easement width needed.

B. Whenever practical, all utilities shall be placed underground.

C. No building shall be erected on said easement.

D. All final plats should be accompanied with evidence that all utilities concur, and that easements indicated on the plat are suitable for servicing the area. (Ord. 1984-09, 6-5-1984)

11-4-7: DRAINAGE COURSES:

A. Routing Of Storm Water: Where storm water from adjacent areas naturally passes through a subdivision, adequate provision shall be included in the facilities to route the storm water through the subdivision to its natural outlet, including necessary easements and provision for lining and checking the rainway, if open, for the installation, or provision for the installation, of storm sewer conduit.

B. Report By Civil Engineer; Required Conditions: A report by a civil engineer, registered in New Mexico, must accompany the preliminary plat of a subdivision giving the quantity, velocity and depth of flow in all drainage courses at points of entering and leaving the subdivision and at key points within the subdivision for flows anticipated, after development of the area, from floods with an average recurrence interval of ten (10) years and twenty five (25) years. The effect of such flows at these points on hydraulic structures, streets, street intersections, and private structures should be presented in the report. Any open channel must be structurally lined with adequate checks to prevent excessive velocities. The design requirements for storm sewer, flood control easements and channels, and for hydraulic structures will be provided by the Governing Body, which must approve plans and specifications for these structures. Right-of-way easements for all open channels shall be dedicated to the City. (Ord. 1984-09, 6-5-1984)

CHAPTER 5

REQUIREMENTS OUTSIDE CITY LIMITS

SECTION:

11-5-1: Trust Agreements
11-5-2: Hydrologic Or Geohydrologic Study
11-5-3: Soil Or Percolation Tests
11-5-4: Water Supply Plan

11-5-1: TRUST AGREEMENTS: Where a subdivision outside the City limits contains sewer, sewage treatment plants, water supply systems, park areas, or other physical facilities necessary or desirable for the welfare of the area and which are of common use or benefit, and which the City does not desire to, or cannot maintain, or serve, provision shall be made by trust agreements made a part of the deed restrictions acceptable to the City for the proper and continuous maintenance and supervision of such facilities by the lot owners in the subdivision or until annexed to the City limits and other provisions made therefor. (Ord. 1984-09, 6-5-1984)

11-5-2: HYDROLOGIC OR GEOHYDROLOGIC STUDY: Whenever a subdivider plans to subdivide land outside the City and does not intend to connect immediately to the existing water system of the City but instead plans a separate community or individual system using ground water or surface water sources, a

geohydrologic report regarding the ground water supply and use shall be prepared by a registered professional engineer according to standards established by the office of the State Engineer. The approval of the report by the office of the State Engineer will be required before the final subdivision plat can be submitted to the Commission. (Ord. 1984-09, 6-5-1984)

11-5-3: SOIL OR PERCOLATION TESTS: Whenever required by the office of the State Engineer, the U.S. Soil Conservation Service (SCS) or the State Environmental Improvement Division, the subdivider will make and furnish such soil or percolation tests as may be

required at his own expense. The SCS shall also be requested by the City Clerk-Treasurer to supply pertinent information to the Commission regarding terrain management of the lands in said subdivision. (Ord. 1984-09, 6-5-1984)

11-5-4: WATER SUPPLY PLAN: In Type 1 and 2 subdivisions outside the City within the three (3) mile area, the subdivider shall provide water for domestic use, fire protection and any other use that will occur in the subdivision. In a similarly located Type 3 subdivision, the subdivider shall provide a water supply for domestic usage. If the domestic water supply is to be furnished by the purchaser or lessee of each parcel in a Type 3 subdivision, the subdivider shall also submit a hydrologic or geohydrologic (as appropriate) report to the office of the State Engineer supplying information as required by that office. The City will not be required to accept any final plat for processing unless the reports required by the office of the State Engineer have been submitted to and approved by that office. (Ord. 1984-09, 6-5-1984)

CHAPTER 6
PLATTING REQUIREMENTS

SECTION:

11-6-1: Preliminary Plat
11-6-2: Final Plat
11-6-3: Resubdivision By Description

11-6-1: PRELIMINARY PLAT:

A. Submission For Review:

1. Filing Copies; Payment Of Fees: Following review of a location map and sketch plan, said location map or sketch plan being optional with the subdivider, any subdivider proposing to subdivide the land described in said location map or portion thereof shall file in the office of the City Clerk-Treasurer twelve (12) prints of a preliminary plat and pay the required processing fees for said subdivision. Said preliminary plat shall be filed at least fifteen (15) days prior to the regularly scheduled meeting of the Commission. The Clerk-Treasurer shall deliver one print to the Mayor, one for engineering review, one to each utility affected and shall retain the remaining prints on file for transmittal to the Commission. In the case of subdivision outside the City limits, the subdivider shall transmit the required number of copies of the preliminary plat to the Dona Ana County Administrator. In the case of a subdivision outside the City limits planning the use of a private utility system, the Clerk-Treasurer shall notify the Public Service Commission, State Engineer, the SCS, and the State Environmental Improvement Division of the plans and request that a representative review the plat. (Ord. 1984-09, 6-5-1984)

2. Subdividing In Phases: If the subdivider of a proposed subdivision owns, is in control of, or has option to purchase land adjacent, contiguous or in the area of the land proposed to be subdivided and the subdivider contemplates development or subdivision of such

other land in the future, along with the preliminary plat, the subdivider shall submit a proposed master plan showing the development and subdivision of the entire tract of land under his ownership or control. Said master plan shall show the layout of each individual proposed subdivision unit if the subdivider contemplates subdivision in phases. (Ord. 1984-10, 7-17-1984)

B. Preliminary Plat Requirements: The preliminary plat shall show at least the following:

1. The location of all present property lines, Municipal boundaries, section lines, streets, buildings, watercourses, and other existing features within the area to be subdivided and similar information (except buildings and property lines) regarding land immediately adjacent thereto.

2. The proposed location and width of all proposed streets, alleys, front setback lines, utility easements, and areas to be reserved for public use.

3. Existing utilities, drainage courses and culverts, within the tract or on streets immediately abutting thereto; the location and size of the nearest water mains and sewer lines.

4. The title under which the proposed subdivision is to be recorded and the name of the land planner, engineer, the registered land surveyor and the subdivider and owner of the tract, with the address to which any notice is to be sent.

5. The layout, numbers and approximate dimensions of proposed lot.

6. The zoning classification and proposed use for the area being platted.

7. Proposed names for all streets in the area being platted.

8. Written and signed statements explaining how and when the subdivider proposes to provide and install all required sewer or other disposal of sanitary wastes, pavement, sidewalks, drainage structures and water supply system.

9. The legal description of the areas being platted.

10. Contours, referring to the United States Coast and Geodetic Survey Datum with intervals of five feet (5') or less in all areas

excepting on slopes averaging less than six percent (6%) where two foot (2') intervals shall be required.

11. The north point, scale one inch equals one hundred feet (1" = 100') and date.

12. The acreage of the land to be subdivided.

13. Any restrictions proposed to be included in the owner's declaration of plot.

14. Subsurface conditions on the tract, if required by the Commission, including such information as the location and results of tests made to ascertain subsurface soil, rock and ground water conditions; depth to ground water; soil percolation and any other subsurface conditions.

15. Such other information and material as may be applicable or required by ordinance or rules and regulations pertaining to utilities within the Municipality.

C. Hearing On Preliminary Plat: A hearing upon such proposal for subdivision as stated in the preliminary plat shall be had before the Commission not later than its second regular meeting following filing. Notice thereof shall be given by the Clerk-Treasurer on behalf of the Commission by mailing a notice to or, telephoning the person or persons who filed the preliminary plat to the address or number set forth in the filed papers.

D. Approval And Form Of Preliminary Plat:

1. If upon the conclusion of such hearing the Commission shall find that such preliminary plat satisfied the requirements of this Title, the chairman of the Commission shall sign and date approval thereof in substantially the following language:

The proposed plan of subdivision as shown in the preliminary plat herein is approved and the Commission now is ready to receive the final plat of said subdivision for consideration.

2. One print of said preliminary plat so endorsed shall be returned to the subdivider

by personal delivery or mail, another print so endorsed shall be retained by the Commission and one print with said findings shall be placed in the files of the Clerk-Treasurer.

3. A subdivider may submit to the Commission an amended preliminary plat for the purpose of complying with any order of the Commission. In such event, twelve (12) prints thereof shall be filed with the Clerk-Treasurer for resubmission to the required agencies and the Commission. (Ord. 1984-09, 6-5-1984)

11-6-2: FINAL PLAT:

A. Preparation By Registered Licensed Surveyor; Minimum Public Improvements:

1. Receipt by the subdivider of the print of the preliminary plat approved by the Commission as aforesaid shall constitute authority for the subdivider to proceed with further plans and specifications for installation of public improvements in accordance with the minimum standards established by this Title and the preparation of a final plat.

2. The final plat must be prepared, stamped and signed by a registered, licensed surveyor of New Mexico.

3. A final plat submitted for land outside the City must satisfy the platting requirements established by Dona Ana County as well as those established herein.

B. Submission For Review By Commission:

1. The final plat may, in the discretion of the subdivider, constitute only such portion of the tract covered in the preliminary plat as the subdivider proposes to presently record and develop.

2. If a final plat of the entire subdivision or of such portion as the subdivider proposes to presently record and develop, is not submitted for approval within six (6) months after approval of the preliminary plat, such approval of the unfinalized portions of the preliminary plat shall become null and void unless an extension of time is applied for by the subdivider and granted in writing by the Commission.

3. Where a portion of a plat has been approved as a final plat and has been developed, and within six (6) months after completion of such development, an additional final plat has not been submitted for additional approval, the provisions of this subsection providing that it shall become null and void will apply.

4. Four (4) prints of the final plat shall be filed with Clerk-Treasurer at least fifteen (15) days before the next regular meeting of the Commission.

C. Contents Of Final Plat:

1. The final plat shall be in conformity with the requirements of the Clerk-Treasurer and shall be an accurate drawing designating specifically the land so laid out, and particularly describing the portions thereof intended to be dedicated for public use. Said final plat shall be drawn in black ink to a scale of not more than one inch equals one hundred feet (1" = 100') from an accurate survey. It shall contain one or more sheets of dimensions not exceeding twenty four inches by thirty six inches (24" x 36"). If more than two (2) sheets are submitted, an index sheet of the same dimensions shall be attached showing the entire subdivision on one sheet and the component areas on the remaining sheets.

2. Said final plat of the subdivision and accompanying documents shall show:

a. Boundary lines with accurate distances and angles.

b. Correct legal description which shall refer to permanent monuments, number of each lot in progression, and dimensions of same.

c. Lines of all proposed streets and alleys with their width and names.

d. Accurate outline of any portions of the property intended to be dedicated for public use or for the use of the owners of lots fronting or adjacent to the land, together with dimensions of same.

e. Line of departure of one street from another.

f. Names with widths of adjoining streets and alleys abutting the subdivision.
g. All lots designated by numbers or letters and streets, avenues and other grounds designated by names, letters or numbers, and designating building numbers (street addresses).
h. Building setback lines shown by narrow dashed lines.

i. Location of all easements provided for public use, services or utilities.
j. All dimensions, both linear and angular, necessary for locating the boundaries of the subdivision, lots, streets, alleys, easements, and other areas for public or private use.
k. Radii, arcs, or chords, points of tangency and central angles for all curvilinear streets and radii for rounded corners.
I. Location of all survey monuments and their descriptions.
m. Name of the subdivision and the scale of the plat, north point, the names of owners, of subdividers and date.
n. Certificate of registered land surveyor, attesting to the accuracy of the survey and the correct location of all monuments shown.
o. Certificate of licensed engineer attesting to the adequacy of, and in compliance with, engineering provisions and requirements.
p. Acknowledgement. Every plat shall contain a statement that the land being surveyed, and the streets, alleys, easements, drainways and other public ways appearing on the plat are with the free consent and in accordance with the desire of the undersigned owner and proprietor of the land and are dedicated to the public use and shall be acknowledged.
q. Certification. A certification by the owner or owners and spouse, if any, or a duly authorized attorney that there are no delinquent taxes, suits, actions at law, easements, restrictive covenants or rights of way affecting the property except those stated on the plat.
r. Affidavit. The plat shall also contain an affidavit by the City that the proposed subdivision does lie within the planning and platting jurisdiction of the City.
s. Separately signed approval blocks with the names of each utility company involved typed under the signature along with the date of each signature. Signatures shall be obtained from the telephone company, electric company, gas company, cable TV, the City utilities superintendent, and the nearest health officer representing the State Environmental Improvement Division.

D. Recommendation Of Approval By Commission:
1. When the subdivider has filed with the Commission a final plat, and four (4) prints thereof, for approval, the Commission shall inform him that he is entitled to a public hearing on the plat with five (5) days' notice thereof. Such hearing may be waived by the person seeking approval of the plat (the subdivider).
2. Subsequently, when the Commission has determined that the plat conforms to the previously approved preliminary plat, including any condition which may have been required by the Commission in approving said preliminary plat, and that said final plat meets all requirements of this Title, the following shall be printed or stamped upon the original plat and prints thereof and signed by the chairman of the Commission:
This final plat of subdivision is recommended to the Governing Body for approval, subject to certifications by the Clerk-Treasurer that all arrangements for public improvements required by the land subdivision regulations have been made in accordance with the requirements of Section 11-6-2 of the City Code.
Dated
CITY OF SUNLAND PARK PLANNING AND ZONING COMMISSION
By

Chairman
By
Secretary
3. The Commission shall then transmit the endorsed final plat and three (3) prints thereof to the office of the Clerk-Treasurer for immediate reference to the Governing Body, with a letter of transmittal in duplicate calling attention to any variations or modifications of the requirements of this Title recommended by the Commission under Section 11-4-5 and Chapter 8 of this Title and setting forth its reasons for recommending the same. One print of said final plat so endorsed shall remain on file in the office of the Clerk-Treasurer.

E. Submission To Governing Body; Certificate Of Clerk-Treasurer: Upon receipt of a final plat and prints thereof so endorsed by the Commission, the Clerk-Treasurer shall refer the final plat with said letter of transmittal to the Governing Body at its next regular meeting. Thereupon said plat shall remain pending on the agenda of the Governing Body until the Clerk-Treasurer has certified thereon that:
1. The public improvements required by this Title have been constructed in a satisfactory manner in accordance with the minimum standards established by the City; or
2. In lieu of such prior construction, the subdivider has filed with the Clerk-Treasurer a duly executed performance bond with a financially qualified surety in an amount equal to one hundred percent (100%) of the cost of the total public improvements and on all of the property in accordance with Chapter 7 of this Title. The form of the bond must have prior approval by the City Attorney; and
3. The developer has presented copies of signed binding noncancellable contracts containing adequate financial assurance to the City providing for installation of public improvements in a satisfactory manner in accordance with the minimum standards established by the City. (Ord. 1984-09, 6-5-1984)
F. Approval Or Disapproval By Governing Body:
1. The Governing Body shall approve or disapprove a final plat within thirty five (35) days of the day that the provisions of subsection E of this Section have been complied with by the developer. If the Governing Body does not act within thirty five (35) days, the plat is deemed to be approved and, upon demand, the Governing Body shall issue a certificate approving the plat. The person seeking approval of the plat may waive this requirement and agree to an extension of this time period. The reason for disapproval of a plat shall be entered upon the minutes of the Governing Body. (Ord. 1984-09, 6-5-1984; amd. 2000 Code)
2. No plat of territory shall be filed and recorded unless it has been approved by the Governing Body, and endorsed by the Mayor and Clerk-Treasurer.
G. Approved Plat Filed With County Clerk; Disapproval; Return Of Filing Fee: When such final plat has been approved by the Governing Body and signed by the Mayor and Clerk-Treasurer and the filing fee as

required by the County Clerk has been received from the developer, it must be recorded in the office of the County Clerk of Dona Ana County. If the plat is not approved, the County filing fee together with the final plat is to be returned to the person submitting the plat. (Ord. 1984-09, 6-5-1984)
11-6-3: RESUBDIVISION BY DESCRIPTION:
A. Certificate Of Survey: Every person who desires to subdivide land shall furnish a plat of the proposed subdivision, prepared by a registered, licensed surveyor of New Mexico; except that the resubdivision of platted tracts that are less than one acre and which are contiguous with each other, for the purpose of increasing or reducing the size of such contiguous tracts, but not less than the minimum standard size required by the City, shall not require the furnishing of a plat of the proposed

resubdivision; provided, that a certificate of survey setting forth the legal description of tracts resulting from such resubdivision shall be filed with the Commission, the County Clerk and County Assessor of Dona Ana County, and such filing shall be considered as a rededication of said described lots in all respects. (Ord. 1984-09, 6-5-1984; amd. 2000 Code)

B. Description Of Lots: The plat shall refer to permanent monuments and shall accurately describe each lot, number each lot in progression, give its dimensions and the dimensions of all land dedicated for public use or for the use of the owners of lots fronting or adjacent to the land. Description of the lots by number and plat designation are valid in conveyances and for the purpose of taxation. (Ord. 1984-09, 6-5-1984)

CHAPTER 7

IMPROVEMENTS

SECTION:

11-7-1: Authorization To Construct Public Improvements
11-7-2: Completion Of Improvements
11-7-3: Improvements Standards
11-7-4: Improvements Requirements

11-7-1: AUTHORIZATION TO CONSTRUCT PUBLIC IMPROVEMENTS:

A. Signed Copy Of Preliminary Plat: Receipt of the signed copy of the preliminary plat is authorization for the subdivider to proceed with the preparation of plans and specifications for the minimum improvements that will be required.

B. Plans And Information Required: Prior to the construction of any improvements, the subdivider shall furnish the Clerk-Treasurer all plans, information and data necessary for the construction of said improvements.

C. Approval Of Plans: The plans shall be examined by the City Engineer, and will be approved if in accordance with the following requirements in this Chapter. Following the approval, construction can be started. The subdivider may prepare and secure approval of the preliminary plat and then install improvements only in the portion of the area covered by the preliminary plat. (Ord. 1984-09, 6-5-1984)

11-7-2: COMPLETION OF IMPROVEMENTS: Plans for improvements shall be prepared by a qualified engineer registered in accordance with the laws of New Mexico. The improvements listed below shall be installed pursuant to the method decided upon under subsection 11-6-2E of this Title, and with the provision that no residence or other building shall be constructed until the street, curb and gutter,

sidewalk, water and sewer improvements, underground utilities, or storm drain provisions as may be required have been installed for the entire block in which the residence or other building shall be located. (Ord. 1984-09, 6-5-1984)

11-7-3: IMPROVEMENTS STANDARDS: Standards for design, construction, specifications and inspection of street improvements, curbs and gutters, sewers, sidewalks and drainage facilities shall be prepared by the City Engineer. Similar standards for gas and water distribution facilities, fire hydrants, sewage disposal, garbage disposal and sanitation facilities shall be prepared by the City Engineer in conformance with applicable State requirements. (Ord. 1984-09, 6-5-1984)

11-7-4: IMPROVEMENTS REQUIREMENTS: The improvements to be installed shall include the following:

A. Permanent Markers: All subdivision boundary corners and the intersections of street center lines shall be marked with a permanent monument. A permanent monument shall be deemed to be concrete with a minimum dimension of four inches

(4"), extending three feet (3') below the surface of the ground, or steel pipe firmly imbedded in concrete which extends at least three feet (3') below the surface of the ground. Should conditions prohibit the placing of monuments on line, offset marking will be permitted; provided, however, the offset courses and distances are shown on the plat. A permanent benchmark shall be accessibly placed within the subdivision, the elevation of which shall be referred to the USC and GS datum and accurately noted on the subdivision plat.

B. Street Improvements: All streets shall be graded and the roadway improved by paving under the supervision of the City Engineer and subject to his approval. Curbing, gutter, and sidewalks shall be installed in a similar manner. No paving is to be installed unless all utility lines have been placed and stubbed out under the areas to be paved. Roadway surfacing shall include standard curb and twenty two inch (22") gutter on both sides of the sides of the street not closer than fifty feet (50') from the back of one curb to the other with the area between the curbs surfaced with concrete or asphalt meeting the specifications of the City Engineer.

C. Types 1 And 2 Subdivisions: Roadway surfacing on Types 1 and 2 subdivisions shall consist of concrete or asphalt paving, at least twenty four feet (24') wide, constructed in accordance with standard

specifications of the City with drainage ditches where appropriate with slopes no steeper than two feet (2') horizontal for each one foot (1') vertical and at least two feet (2') deep.

D. Major Streets: Major streets shall be at a width determined by study of the City Engineer, recommendation of the Commission, and approval of the Governing Body.

E. Sidewalks: Sidewalks shall have a minimum width of four feet (4') and shall be constructed under the supervision of, and subject to the approval of, the City Engineer in accordance with specifications of the City Engineer. Sidewalks shall be located with back abutting the street right-of-way line.

F. Water Lines: The subdivider shall make necessary arrangements to serve each lot within the corporate limits from a water main of the City water system. Water lines shall be installed to at least the back side of proposed sidewalks before any paving is installed.

G. Water Lines For Type 1, 2 Or 3 Subdivisions: The subdivider shall provide an adequate supply of potable water to each lot by a water system approved by the offices of the State Engineer and the State Environmental Improvement Division with proper provisions for maintenance thereof as required or shall serve each lot with a water main of the City water system, if approved by the Governing Body. Where allowed in a Type 3 subdivision and an adequate water supply is made available for every lot by the individual lot owner, evidence to this effect must be presented and include deed restrictions on the final plat requiring any such individual water supply systems to comply with the requirements of the office of the State Engineer.

H. Sanitary Sewers: The subdivider of land within the City limits shall connect with the sanitary sewer system of the City and provide adequate sewer lines accessible to each lot. Said sewers shall be constructed in accordance with the specifications of the City under the supervision of the Engineer and subject to his approval. All lines which will lie under paving shall be installed prior to paving.

Sanitary Sewers For Type 1, 2 Or 3 Subdivisions: Where a public sanitary sewer is within one thousand five hundred feet (1,500') of the subdivision, the subdivider shall connect with the public sanitary sewer system and provide adequate sewer lines accessible to each lot. Said sewers shall be constructed in accordance with the standard specifications of the City under the supervision of the City

Engineer and subject to his approval. Where lots cannot be connected with a public sewer system, provisions must be made for sanitary sewerage facilities, consisting of a central treatment plant or individual disposal devices for each lot, but the subdivision plat shall include deed restrictions requiring that all such disposal systems shall be constructed in accordance with the specifications of the State Environmental Improvement Division and the U.S. Soil Conservation Service and under the supervision of and subject to the approval of the City Engineer.

J. Drainage: Adequate provision shall be made for drainage of storm water in Type 1, 2 and 3 subdivisions subject to the approval of the City Engineer. Drainage improvements shall maintain any natural watercourse and shall prevent the collection of water in any low spot. No lot shall be platted to obstruct natural water flow. Storm water drainage shall not be permitted to combine with sanitary sewer. Drainage channels must be lined and provided with required checks or be installed in concrete storm sewer conduit in accordance with the requirements of the City Engineer.

K. Alleys: Alleys shall be graded to their maximum usable width to a grade sloped to drain. Valley gutters, at least eighteen inches (18") wide shall border the paving on both sides.

L. Street Signs: A four (4) way metal street sign shall be installed at each street intersection by the City and billed to the developer. The letters shall be at least four inches (4") high. The signs shall be plain with white letters and the style, color, and material must be approved in advance by the City. Signs on State highways shall meet the standards of the State Highway Commission. (Ord. 1984-09, 6-5-1984)

CHAPTER 8

VARIANCES

SECTION:

11-8-1: Modification Of Requirements, Hardship

11-8-1: MODIFICATION OF REQUIREMENTS, HARDSHIP:

A. Conditions For Allowing Variance: Where in the case of a particular proposed subdivision it can be shown that strict compliance with the requirements of this Title would result in extraordinary hardship to the subdivider because of unusual topography or other nonselfinflicted condition, or that these requirements would result in inhibiting the achievement of the objectives of this Title, the Commission may recommend to the Governing Body to vary, modify, or waive the requirements so that substantial justice may be done and the public interest secured; provided, that such variance, modification, or waiver will not have the effect of nullifying the intent and purpose of this Title or any utility regulations or other requirements of the City or interfere with carrying out the Comprehensive Plan.

B. Application For Variance: Application for any variance shall be submitted in writing by the subdivider at the time the preliminary plat is filed and shall state fully the grounds for the application and the facts relied upon by the subdivider. The Commission shall give its written recommendation thereon at the time of its approval or disapproval of said preliminary plat.

C. Limitations On Allowing Variance: In no case shall any variation or modification be contrary to the mandatory requirements of State law, nor be more than a minimum easing of the requirements. In no case shall it have the effect of reducing the traffic capacity of any street below that shown on the Comprehensive Plan or be in conflict with the Zoning Ordinance.

D. Commission Recommendations To Governing Body: In granting variances and modifications, the Commission may recommend such conditions as will, in its judgment, secure substantially the objective of the requirements so varied or modified. In all cases the decision of the Governing Body shall be final. (Ord.

1984-09, 6-5-1984)
City of Sunland Park

TITLE 12
FLOOD CONTROL
Subject Chapter
Flood Damage Prevention 1

City of Sunland Park

CHAPTER 1

FLOOD DAMAGE PREVENTION

SECTION:

12-1-1: Stationary Authorization
12-1-2: Findings of Fact
12-1-3: Statement of Purpose
12-1-4: Methods of Reducing Flood Losses
12-1-5: Definitions
12-1-6: Lands to Which this Chapter Applies
12-1-7: Basis for Establishing the Areas of Special Flood Hazard
12-1-8: Establishment of Development Permit
12-1-9: Compliance
12-1-10: Abrogation and Greater Restrictions
12-1-11: Interpretation
12-1-12: Warning and Disclaimer of Liability
12-1-13: Designation of the Floodplain Administrator
12-1-14: Duties and Responsibilities of the Floodplain Administrator
12-1-15: Permit Procedures
12-1-16: Variance Procedures
12-1-17: Flood Hazard Reduction; General Standards
12-1-18: Flood Hazard Reduction; Specific Standards
12-1-19: Standards for Subdivision Proposals
12-1-20: Standards for Areas of Shallow Flooding (AO/AH Zones)
12-1-21: Penalties for Non-Compliance

12-1-1: **STATUTORY AUTHORIZATION:** The Legislature of the State of New Mexico has in NMSA § 3-18-7, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City of Sunland Park in New Mexico, does ordain as follows. (Ord. 2016-04, 7-6-2016)

12-1-2: **FINDINGS OF FACT:**

A. The flood hazard areas for the City of Sunland Park are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

B. 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, flood proofed or otherwise protected from flood damage. (Ord. 2016-04, 7-6-2016)

12-1-3: **STATEMENT OF PURPOSE:** It is the purpose of this Chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

A. Protect human life and health;

B. Minimize expenditure of public money for costly flood control projects;

C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

D. Minimize prolonged business interruptions;

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

F. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and

G. Insure that potential buyers are notified that property is in a flood area. (Ord. 2016-04, 7-6-2016)

12-1-4: **METHODS OF REDUCING FLOOD LOSSES:** In order to accomplish its purposes, this Chapter uses the following methods:

A. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;

B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;

D. Control filling, grading, dredging and other development which may increase flood damage;

E. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands. (Ord. 2016-04, 7-6-2016)

12-1-5: **DEFINITIONS:** Unless specifically defined below, words or phrases used in this Chapter shall be interpreted to give them the meaning they have in common usage and to give this Chapter it's most reasonable application.

ALLUVIAL FAN FLOODING:	Flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.
APEX:	A point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.
APPEAL BOARD:	Referring to the City Council of Sunland Park, New Mexico.
APPURTENANT STRUCTURE:	A structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.
AREA OF FUTURE CONDITIONS FLOOD HAZARD:	The land area that would be inundated by the one-percent (1%) annual chance (100 year) flood based on future conditions hydrology.
AREA OF SHALLOW FLOODING:	A designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent (1%) or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
AREA OF SPECIAL FLOOD HAZARD:	Is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed rate-making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

BASE FLOOD:	The flood having a one percent (1%) chance of being equaled or exceeded in any given year.
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 (1%) chance of equaling or exceeding that level in any given year - also called the Base Flood.
BASEMENT:	Any area of the building having its floor subgrade (below ground level) on all sides.
BREAKAWAY WALL:	A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.
CRITICAL FEATURE:	An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.
DEVELOPMENT:	Any man-made change to 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.
ELEVATED BUILDING:	For insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
EXISTING CONSTRUCTION:	For the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION:	A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION:	The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
FLOOD OR FLOODING:	A general and temporary condition of partial or complete inundation of normally dry land areas from: A. The overflow of inland or tidal waters. B. The unusual and rapid accumulation or runoff of surface waters from any source.
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 (i.e., mudflow) and/or flood-related erosion hazards.
FLOOD INSURANCE RATE MAP (FIRM):	An official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.
FLOOD INSURANCE STUDY (FIS):	See “Flood Elevation Study”.
FLOODPLAIN OR FLOOD-PRONE AREA:	Any land area susceptible to being inundated by water from any source (see definition of flooding).

FLOODPLAIN MANAGEMENT:	The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.
FLOODPLAIN MANAGEMENT REGULATIONS:	Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
FLOOD PROTECTION SYSTEM:	Those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.
FLOOD PROOFING:	Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
FLOODWAY:	See “Regulatory Floodway”.
FUNCTIONALLY DEPENDENT USE:	A use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

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

HISTORIC STRUCTURE: Any structure that is:

A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

D. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:

1. By an approved state program as determined by the Secretary of the Interior; or

2. Directly by the Secretary of the Interior in states without approved programs.

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

LEVEE SYSTEM: A flood protection system which consists of a levee, or levees, and associated structures,

such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

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

MANUFACTURED HOME: A structure transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

MANUFACTURED HOME PARK OR SUBDIVISION: A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

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

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

NEW MANUFACTURED HOME PARK OR SUBDIVISION:	A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
RECREATIONAL VEHICLE:	A vehicle which is (i) built on a single chassis; (ii) four hundred (400) square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
REGULATORY FLOODWAY	The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
RIVERINE	Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
SPECIAL FLOOD HAZARD AREA:	See “Area of Special Flood Hazard.”
START OF CONSTRUCTION:	(For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond

	the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
STRUCTURE:	For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.
SUBSTANTIAL DAMAGE:	Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.
SUBSTANTIAL IMPROVEMENT:	Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living 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."

VARIANCE:	A grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)
VIOLATION:	The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) of the National Flood Insurance Program is presumed to be in violation until such time as that documentation is provided.
WATER SURFACE ELEVATION:	The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas. (Ord. 2016-04, 7-6-2016)

12-1-6: **LANDS TO WHICH THIS CHAPTER APPLIES:** The Chapter shall apply to all areas of special flood hazard with the jurisdiction of Dona Ana County unincorporated areas. (Ord. 2016-04, 7-6-2016)

12-1-7: **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 Dona Ana County," dated July 6, 2016, with accompanying Flood Insurance Rate Maps dated July 6, 2016, and any revisions thereto are hereby adopted by reference and declared to be a part of this Chapter. (Ord. 2016-04, 7-6-2016)

12-1-8: **ESTABLISHMENT OF DEVELOPMENT PERMIT:** A Floodplain Development Permit shall be required to ensure conformance with the provisions of this Chapter. (Ord. 2016-04, 7-6-2016)

12-1-9: **COMPLIANCE:** No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this Chapter and other applicable regulations. (Ord. 2016-04, 7-6-2016)

12-1-10: **ABROGATION AND GREATER RESTRICTIONS:** This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 2016-04, 7-6-2016)

12-1-11: **INTERPRETATION:** In the interpretation and application of this Chapter, all provisions shall be; (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under State statutes. (Ord. 2016-04, 7-6-2016)

12-1-12: **WARNING AND DISCLAIMER OR LIABILITY:** The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made hereunder. (Ord. 2016-04, 7-6-2016)

12-1-13: **DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR:** The Building Inspector/CFM is hereby appointed the Floodplain Administrator to administer and implement the provisions of this Chapter and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management. (Ord. 2016-04, 7-6-2016)

12-1-14: **DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR:** Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

A. Maintain and hold open for public inspection all records pertaining to the provisions of this Chapter.

B. Review permit application to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.

C. Review, approve or deny all applications for development permits required by adoption of this Chapter.

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

E. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.

F. Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the Texas Water Development Board (TWDB) and also the Texas Commission on Environmental Quality (TCEQ), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

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

H. When base flood elevation data has not been provided in accordance with Section 12-1-7 of this Chapter, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Sections 12-1-17 through 12-1-21 of this Chapter.

I. When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones 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.

J. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one (1) foot, provided that the community first completes all of the provisions required by Section 65.12 of the National Flood Insurance Program. (Ord. 2016-04, 7-6-2016)

12-1-15: **PERMIT PROCEDURES:**

A. Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but

not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;

2. Elevation in relation to mean sea level to which any nonresidential structure shall be flood proofed;

3. A certificate from a registered professional engineer or architect that the nonresidential flood proofed structure shall meet the flood proofing criteria of Section 12-1-18B. of this Chapter;

4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;

5. Maintain a record of all such information in accordance with Section 12-1-14A. of this Chapter;

B. Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this Chapter and the following relevant factors:

1. The danger to life and property due to flooding or erosion damage;

2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

3. The danger that materials may be swept onto other lands to the injury of others;

4. The compatibility of the proposed use with existing and anticipated development;

5. The safety of access to the property in times of flood for ordinary and emergency vehicles;

6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;

7. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

8. The necessity to the facility of a waterfront location, where applicable;

9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use. (Ord. 2016-04, 7-6-2016)

12-1-16: **VARIANCE PROCEDURES:**

A. The Appeal Board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this Chapter.

B. The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Chapter.

C. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.

D. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

E. 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 Chapter.

F. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section 12-1-15B. of this Chapter have been fully considered. As the lot size increases beyond the one-half (1/2) acre, the technical justification required for issuing the variance increases.

G. Upon consideration of the factors noted above and the intent of this Chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Chapter (Section 12-1-3).

H. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

I. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

J. Prerequisites for granting variances:

1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

2. Variances shall only be issued upon: (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

3. Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

K. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria outlined in Section 12-1-16A. through I. are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety. (Ord. 2016-04, 7-6-2016)

12-1-17: **FOR FLOOD HAZARD REDUCTION; GENERAL STANDARDS:** In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

A. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

B. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

C. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

D. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

E. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

F. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,

G. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. (Ord. 2016-04, 7-6-2016)

12-1-18: **FLOOD HAZARD REDUCTION; SPECIFIC STANDARDS:** In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Section 12-1-7, (ii) Section 12-1-14H., or (iii) Section 12-1-19C., the following provisions are required:

A. Residential Construction: new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Section 12-1-15A.1., is satisfied.

B. Nonresidential Construction: new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects 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 flood proofed shall be maintained by the Floodplain Administrator.

C. Enclosures: new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

1. A minimum of two (2) openings on separate walls having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.

2. The bottom of all openings shall be no higher than one (1) foot above grade.

3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

D. Manufactured Homes:

1. Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, 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 or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

2. Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

3. Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of subsection D. of this section be elevated so that either:

a. The lowest floor of the manufactured home is at or above the base flood elevation, or

b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

E. Recreational Vehicles: Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either (i) be on the site for fewer than one hundred eighty (180) consecutive days, or (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of Section 12-1-15A.1. of this Chapter, and the elevation and anchoring requirements for "manufactured homes" in subsection D. of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions. (Ord. 2016-04, 7-6-2016)

12-1-19: **STANDARDS FOR SUBDIVISION PROPOSALS:**

A. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Sections 12-1-2, 12-1-3, and 12-1-4 of this Chapter.

B. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of Section 12-1-8; Section 12-1-15; and the provisions of Sections 12-1-17 through 12-1-21 of this Chapter.

C. 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 fifty (50) lots or five (5) acres, whichever is lesser, if not otherwise provided pursuant to Section 12-1-7 or Section 12-1-14H. of this Chapter.

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

E. 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. (Ord. 2016-04, 7-6-2016)

12-1-20: **STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES):** Located within the areas of special flood hazard established in Section 12-1-7 of this Chapter, are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of one (1) to three (3) 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; therefore, the following provisions apply:

A. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified); or

B. All new construction and substantial improvements of non-residential structures;

1. Have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified); or

2. Together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO Zone, or below the Base Flood Elevation in an AH Zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

C. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Section 12-1-15 of this Chapter are satisfied.

D. Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures. (Ord. 2016-04, 7-6-2016)

12-1-21: **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 court order and other applicable regulations. Violation of the provisions of this court order 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 court order or fails to comply with any of its requirements shall upon conviction thereof be fined, not to exceed five hundred dollars ($500.00) for each day the violation is found to have occurred, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City of Sunland Park from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. 2016-04, 7-6-2016)

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