

## **PREFACE**

This code constitutes a complete revision of the general and permanent comprehensive ordinances of the Paradise Hills Special Zoning District, Bernalillo County, New Mexico.

Source materials used in the revision of the code were ordinances adopted by the Commissioners of Paradise Hills Special District and Bernalillo County Commissioners. The source of each selection is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of the code, the reader can located any ordinance included herein.

The sections of the Ordinance have been conveniently arranged in alphabetical order.

## **CHAPTER AND SECTION NUMBERING SYSTEM**

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Care should be taken that the alphabetical arrangements of sections are maintained when including new sections.

## **PAGE NUMBERING SYSTEM**

The page numbering system used in this ordinance is a prefix system.

## **INDEX**

The index has been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross-references within the index itself which stand as guideposts to direct the user to the particular item in which the user is interested.

## **LOOSELEAF SUPPLEMENTS**

A special feature of this publication is the loose-leaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up-to-date. Subsequent amendatory ordinances will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up-to-date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions.

It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

## **ACKNOWLEDGEMENTS**

This publication was revised and credit is gratefully given to the Commissioners, John Wade, Chairman, Hans Zimmer, Vice-Chairman/Treasurer, Shawn Davis, Todd Cash, and Inez Macias for their sincere interest and able assistance throughout the project. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active restrictions of Paradise Hills readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the Zoning Commission affairs.

**ORDINANCE NO. 001-1**

**BE IT ORDAINED BY THE BOARD OF PARADISE HILLS SPECIAL ZONING DISTRICT COMMISSIONERS OF BERNALILLO COUNTY, NEW MEXICO:**

**Section 1  
TITLE**

This Ordinance shall be known as the “Comprehensive Zoning Ordinance of the Paradise Hills Special Zoning District,” hereinafter referred to as “Ordinance” or “Zoning Ordinance.” Within this text, “Commission,” District” and “District Zoning Commission” mean and refer to the Paradise Hills Special Zoning District.

**Section 2  
PURPOSE**

The regulations and restrictions of this ordinance are designed to lessen congestion in the streets and public ways; to secure safety from fire, panic, and other dangers; to promote health and morals; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provisions for transportation, water, sewage, schools, parks, and other public requirements; to conserve the value of buildings and lands; and to encourage the most appropriate use of land throughout the Paradise Hills Special Zoning District areas of Bernalillo County.

**Section 3  
INTERPRETATION & CONFLICT**

A. The regulations, restrictions, and requirements of this Ordinance shall be held to be the minimum standards to carry out the purpose of this Ordinance. This Ordinance is not intended to interfere with, abrogate, or annul an easement, covenant, or other agreement between parties. Where this Ordinance imposes a greater restriction upon the use of land or building, or upon the height of building, or requires larger open space than is imposed by other rules, regulations, easements, covenants, agreements, or ordinances, the provisions of this Ordinance shall control. In the event of conflict between provisions of this Ordinance, the provision imposing the greater restriction controls.

B. The provisions of this ordinance are severable, and if any provision, sentence, clause, section, or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, the illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Ordinance or their application to the persons or circumstances.

C. It is hereby declared to be the intent of the Board of Paradise Hills Commissioners that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional provision, sentence, clause, section, or part had not been included therein, and if the person or circumstances to which this Ordinance or part thereof is inapplicable had been specifically exempted therefrom.

**Section 4**  
**GENERAL PROVISIONS**

Except as herein otherwise provided:

A. The use and height of buildings hereafter erected, converted, enlarged or structurally altered, and the use of any land shall be in compliance with the regulations established herein for the zone in which such land or building is located, except as provided for in Section 13 (Special Use Permit) and Section 14 (Planned Development District).

B. No lot area shall be so reduced that the yards and open spaces shall be smaller than is required by this Ordinance, nor shall the density of population be increased in any manner except in conformity with the area regulations hereby established for the zone in which a building or premises is located, except as provided for in Section 13 (Special Use Permit) and Section 14 (Planned Development District).

C. No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this Ordinance shall be included as a part of a yard or other open space required for another building, except as provided for in Section 14 (Planned Development District).

D. Every building hereafter erected, converted, enlarged, or structurally altered shall be located on a lot, and in no case shall there be more than one main building on one lot, except as regulated in Section 16 (Supplementary Height & Area Regulations), Section 14 (Planned Development District), and Section 13 (Special Use Permit).

E. Parking requirements. Off-street parking for all uses must be provided in accordance with the regulations set forth in Section 15 of this Section.

F. Unobstructed vision clearance for both vehicular and pedestrian traffic safety shall be maintained by the property owner or occupant on all corner lots regardless of the zone classification with reference to any building, sign, fence, ornament, hedge, shrub, tree, display, or other obstruction, but not including existing buildings.

G. The use and occupancy of any premises shall be in conformance to generally acceptable social and environmental principles and the general welfare, and the use thereof shall not be offensive to the reasonable person.

H. In order to protect persons and property from periodic flooding and to preserve the location, character, and extent of natural drainage courses, all property within 125 feet of the centerline of the major arroyos shown on the Master Plan of Drainage of the City of Albuquerque & Environs, on the Zone Map of Bernalillo County, or on the Zone Map of Paradise Hills Special Zoning District is subject to the following regulations:

1. No building or structure may be constructed, altered, or occupied, no materials or equipment may be stored, and no mining, excavation, or land filling may be performed except upon issuance of a certificate of approval by the District Zoning

Commission or unless approval of a Special Use Permit (Section 13) and/or Planned Development District (Section 14) preceding such construction included, as a part of such approval, a drainage element requiring the same submittals as provided for in this Section.

- 2. Procedures:
  - a. An application for a certificate of approval must include a contour map referenced to the appropriate datum plan, prepared by a registered New Mexico civil engineer, which indicates the extent and elevations of all proposed construction, alterations, mining, excavation, and land filling.
  - b. An application must contain other studies as may be required to determine the effect of flooding on the proposed structure or activity and the effect of the proposed structure or activity on the arroyo or flood drainage channel.
  - c. Prior to the issuance of a certificate of approval, the District Zoning Commission must examine the plans and land of the applicant. The District Zoning Commission must find that the building, structure, or activity will not constitute a hazard to persons or property, will not divert water from or obstruct the natural flow of water in the arroyo or flood drainage channel, will not cause flooding of land outside the natural drainage course, and will not reduce or endanger the water-carrying capacity of the arroyo or flood drainage.
  - d. The applicant may be required to erect dikes, barriers, or other structures or improvements necessary to guarantee protection to the public as a condition to the issuance of a certificate of approval.
- 3. The issuance of a certificate of approval will not constitute a representation, guarantee, or warranty of any kind or nature by the District Zoning Commission, County of Bernalillo or by any political subdivision, or by an officer or employee of any of them, of the practicability or safety of any structure or activity, and will create no liability upon or cause of action against any public body, officer, or employee for damage that may thereby result.
- 4. In the event of a conflict between the location of a major arroyo as shown on a Zone Map and the actual location of the arroyo on the ground, the centerline of the actual location of the arroyo controls for the purposes of these regulations.

I. Effect of Appeal of Ordinances.

- 1. The repeal of an ordinance shall not revive any ordinance previously repealed.
- 2. The repeal or amendment of any ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal for an offense committed under the ordinance repealed or amended.

## Section 5 DEFINITIONS

Words used in the present tense include the future tense, and words used in the future tense include the present tense. The singular number includes the plural number, and the plural number includes the singular number. The word “shall” is mandatory, and the word “may” is discretionary.

**Access** A way of approaching or entering a property primarily devoted to vehicular use from a public street, highway or to a private street or access easement. Access includes ingress and egress.

**Abutting** Touching.

**Accessory Building or Use** A subordinate building or use which is incidental to and customary in connection with the principal building or use and which is located on the same lot with such principal building or use. Accessory Use within a zoning or land use category delineated on a Planned Development District plan means an allowability of another use (such as mixed and commercial uses within a residential district), which need not be detailed (described) at the time of plan approval.

### **Adult Amusement Establishment**

**(not allowed in any zone)**

**A.** An establishment which provides amusement or entertainment which is distinguished or characterized by an emphasis on material depicting, describing, or relating to specific sexual activities or specified anatomical areas;

1. Specified Anatomical Areas, means less than completely and opaquely covered human genitals or pubic regions, buttock, and female breast below a point immediately above the top of the areola, and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

2. Specified Sexual Activities, including human genitals in a state of sexual stimulation or arousal, acts of human masturbation, sexual intercourse, or sodomy, and fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

**B.** An establishment which features topless dancers, exotic dancers, strippers, male or female impersonators, or similar entertainment.

**C.** An establishment which, upon payment of a fee provides an escort or a partner to its patrons.

**D.** An establishment which upon payment of a fee provides its patrons with a male or female model fully or partially clothed or nude for the purposes of demonstrating body oils, body lotions or devices.

### **Adult Bookstore**

**(not allowed in any zone)** An establishment having a substantial or significant portion of its stock in film, video tapes trade books, magazines, and other periodicals which are distinguished or characterized by their emphasis

on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, or an establishment with a segment or section devoted to the sale or display of such material.

<b>Adult Photo Studio (not allowed in any zone)</b>	An establishment which, upon payment of a fee, provides photographic equipment or models for the purpose of photographing specified anatomical areas.
<b>Adult Theater (not allowed in any zone)</b>	A theater used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.
<b>Alley</b>	A public way permanently reserved as a secondary means of access to abutting property.
<b>Animal Clinic</b>	An establishment where animals are admitted for examination and treatment and may be kept overnight.
<b>Apartment</b>	One or more structures containing two or more dwelling units each.
<b>Auto Dismantling Yard</b>	A premises on which is conducted the dismantling of automobiles; there may be the selling of automobile parts and the storage of inoperative automobiles awaiting dismantling or removal.
<b>Bathroom</b>	A room containing a washbasin and water closet. Rooms referred to locally as one-half or three-quarter baths are one bath for the purpose of this Ordinance.
<b>Bed &amp; Breakfast House</b>	Means a dwelling unit containing at least one but not more than two guest rooms where lodging is provided, with or without meals, for compensation.
<b>Billboard</b>	Sign, off-premises. A sign which advertises a product, place, activity person, institution or business not located on the site where the sign is located and which is supported by structural steel uprights and conforms to all physical requirements prescribed by the Outdoor Advertising Association of America and/or the Eight Sheet Outdoor Advertising Association.
<b>Boarding/Lodging House</b>	A dwelling, other than a hotel or apartment hotel, where, for compensation and by pre-arrangement or definite periods, lodging with or without meals is provided for five or more persons (not family members) but not exceeding 20 persons.

<b>Buildable Area</b>	The area of the lot left to be built upon after all setbacks and open space requirements have been met.
<b>Building</b>	Any structure having a roof supported by columns or walls built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind, but not including any vehicle or trailer (with or without wheels), nor any moving device, such as furniture, machinery or equipment. When any portion of a building is completely separated from any other portion thereof by a division wall without openings or by a firewall, then each such portion shall be deemed to be a separate building.
<b>Building (Height of)</b>	The vertical distance from the grade to (a) the highest point of a flat roof, (b) the declivity of a mansard roof, or (c) the average height between eaves and ridge for gable, hip, and gambrel roofs.
<b>Building (Main)</b>	The building occupied by the principal use of the property.
<b>Building or Use Permit</b>	The certificate issued by the Zoning Commission, required by Section 20 hereof.
<b>Business</b>	A legal entity operating an enterprise in a space separate from any other enterprise. All related uses shall be accommodated on site with the building or use served.
<b>Church</b>	A building for public or private worship, or a body or organization of religious believers.
<b>Club</b>	Buildings and facilities owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit and not primarily to render a service which is customarily carried on as a business.
<b>Commercial Animal Establishment</b>	Any establishment or premises, operating for profit, where six or more dogs and/or cats or aggregate thereof, over four months of age are boarded, kept, or maintained for any purpose whatsoever; it includes kennels, grooming parlors, pet shops, animal hospitals and breeders.
<b>Conditional Use</b>	A use permitted in a zone by approval of the District Zoning Commission, with additional requirements deemed necessary to safeguard the best interest of the adjoining property, neighborhood, and the community.
<b>Contiguous</b>	Adjacent to or touching, separated by not more than an alley.

<b>Contractor</b>	One that contracts or is a party to a contract, one that contracts to perform work or provide services or supplies on a large scale including but not limited to general contractor, road contractor, lath and plaster contractor, plumbing contractor and truck hauling.
<b>Contractor's Yard</b>	A premises where equipment, materials and supplies are stored, kept, and/or maintained in connection with a contracting operation.
<b>Courtyard</b>	An open space more than one-half surrounded by buildings.
<b>Day Care Center</b>	A facility which provides care, services, and supervision to four or more children for a period of less than 24 hours of any day. A day care center may be located in any building which meets the applicable state and local building and safety codes, and can only be located in a C-1 or C-N designated zone.
<b>Density</b>	For residential sites or districts the number of dwelling units divided by the site area. If Gross Density, the result is expressed as dwelling units per gross acre (or Gross Density). If Net Density, use net site area. If unstated, Gross Site Area and Gross Density will be assumed.
<b>Drainage Plan</b>	A detailed drainage plan, prepared by a New Mexico registered engineer competent in the area of surface hydrology and hydraulics to properly address how drainage will be handled on a specific site.
<b>Drive-In Restaurant</b>	A restaurant or refreshment stand which has one or more of the following: 1) No inside tables or counters for customer eating; 2) Carhop service for parked vehicles in specially equipped stalls for this purpose; 3) Outside tables which are not completely surrounded by a building or fence at least six feet high.
<b>Drive-Thru Restaurant</b>	A restaurant or refreshment stand which has: 1) An outside menu board for ordering and a pickup window for picking up an order. The food is consumed off the premises; 2) Inside tables or counters for customer convenience.
<b>Dwelling Unit</b>	A room or suite of rooms with kitchen and bath facilities designed as a unit for occupancy by one family.
<b>Easement</b>	The word "easement" means a right, liberty, privilege or advantage without profit which the owner of one parcel of land may have in the lands of another. A right in the owner of one parcel of land, by reason of such ownership, to use the land of another for a special purpose not inconsistent with a general property right in the owner.
<b>Family</b>	Any individual; or, two or more persons related by blood, marriage, adoption or legal assignment, along with as many as 3 persons not so

related; or a group of not more than 5 persons not related by blood or marriage, living together in a dwelling unit.

<b>Family Day Care Home</b>	An occupied dwelling in which a person provides care, services, and supervision for up to four children for a period less than 24 hours of any day. The resident providers children shall not be counted for this definition.
<b>Floor Area</b>	The gross horizontal area of the several floors including basement, cellars, and penthouses (but excluding such areas within a building which are used for parking), measured from the exterior faces of the exterior walls of a building.
<b>Floor Area Ratio</b>	The total amount of heated floor area within dwelling units divided by the area of the site.
<b>Frontage</b>	The distance along a street right-of-way line measured from a property line, intersecting street or street terminus (dead end) to another. Where block returns and other property line radii occur at intersecting streets, the frontage shall be measured to the hypothetical intersection of the rights-of-way (Point-of-Intersection, or P.I.).
<b>Future Street Line</b>	A line running more or less parallel to the centerline of certain existing or proposed streets as established by the County for the purpose of delineating the future widths of street rights-of-way.
<b>Garage or Carport (Private)</b>	A detached accessory building or portion of a main building housing the automobiles of the occupants of the premises.
<b>Garage (Public)</b>	A building or portion thereof, other than a private garage, designed or used for equipping, servicing, repairing, hiring, selling, storing, or parking motor-driven vehicles. The term “repairing” shall not include an automotive body repair shop, nor the rebuilding, dismantling, or storage of wrecked or junked vehicles.
<b>Grade</b>	The average of the finished ground level at the center of all walls of a building. In case the walls are parallel to and within 5 feet of a sidewalk, the ground level shall be measured at the sidewalk at the center of such wall nearest the sidewalk.
<b>Gross Site Area</b>	The total land area, in acres, of a site or sites calculated as if no street dedications, parks, public open spaces or other land conveyances had taken place. Property abutting existing streets is measured to the centerline of the street.
<b>Group Home</b>	A residence providing full-time supervision and training in daily living activities to six residents other than family; no infant care is provided.

<b>Guest House</b>	A building accommodating guests.
<b>Guest Ranch</b>	A resort providing recreation and entertainment to vacationers.
<b>Height/Distance Angle</b>	The angle, formed by measuring a vertical angle from a point (or points) on a specified line (such as a street right-of-way or property line). Unless otherwise specified, the angle is measured from the average (or mean) existing grade line that approximates the ground elevations within the property (lot section) affected in an undeveloped condition. Unless otherwise specified, the angle shall be taken along the line (or lines) so as to form a plane, within which certain restrictions (building and sign height) may be imposed.
<b>Home Occupation</b>	Any occupation or activity clearly incidental and secondary to use of the premises for a dwelling. There shall be no exterior display, no exterior storage of materials, no nuisances emitted from the premises, and no other exterior indication of the home occupation or variation from the residential character of the main building. Only members of the residing family are employed. Not more than 25 percent of the floor area is devoted to the home occupation, nor more than 600 sq. ft. of accessory building.
<b>Hospital for Human Beings</b>	An establishment that provides through an organized medical staff and permanent facilities that include inpatient beds, medical services, and continuous licensed professional nursing services, diagnosis and treatment both surgical and nonsurgical, for patients who have any of a variety of medical conditions, including mental illness. A facility licensed by the State of New Mexico as a general, limited, or special hospital is presumed to be a hospital for human beings. Not allowed in R-1, R-2, A-1 and C-N designated zones.
<b>Hotel</b>	A building in which lodging, or boarding and lodging are provided and offered to the public for compensation, and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all times. As such, it is open to the public in contradistinction to a boarding house, a lodging house, or an apartment house, which are herein separately defined.
<b>Incidental Use</b>	A use which is appropriate, subordinate, and customarily incidental to the main use of the lot.
<b>Inoperative Vehicles</b>	A vehicle which is not parked inside a building and is inoperative.
<b>Institution</b>	A non-profit establishment for public use.
<b>Intensity, Site</b>	In residential and non-residential districts or sites, the amount of allowable (or constructed) building mass and impact, expressed as

floor/area ratios within the district as allowed or constructed on each site. See also Density.

<b>Landscaping Buffer</b>	A strip of landscaped land established by the Landscaping and Buffer Landscaping Regulations to protect one type of land use from another with which it is incompatible.
<b>Landscaping Plan</b>	An accurate plan, drawn to scale, which outlines all proposed areas to be covered with impervious materials, proposed planting beds and vegetative ground cover area; specifies the location, size and species of all proposed trees and shrubs.
<b>Landscaped Setback</b>	The planting of at least one tree, 1½-inch minimum caliper measured two feet above ground, per 30 linear feet of frontage and at least 75 percent of the area must be planted and maintained with live planting material.
<b>Landscaping</b>	The planting and maintenance of live plants and inorganic and manufactured materials including trees, shrubs, ground cover, flowers, or other low-growing plants that are native or adaptable to the climatic conditions of Bernalillo County. In addition, the landscape design may include limited inorganic and manufactured materials such as rocks, fountains, reflecting pools, works of art, screens, walls, fences, benches and other types of street furniture.
<b>Living Quarters, Accessory</b>	Living quarters within an accessory building containing one bedroom, one living room, one bathroom, one closet, one mechanical room, no kitchen facilities and to be occupied by no more than two persons, shall not be rented or otherwise used as a dwelling unit and does not exceed 500 square feet in area.
<b>Lot</b>	a) A tract or parcel of land platted and placed on the County Clerk's record in accordance with laws and ordinances, or b) A tract or parcel of land held in separate ownership as shown on the records of the County Clerk, prior to <b>November 13, 1978</b> date of passage of the District Zoning Commission Ordinance No. 001.
<b>Lot Area</b>	The Net Site Area of a lot.
<b>Lot, Corner</b>	A lot abutting two or more streets at their intersection.
<b>Lot, Depth</b>	The mean horizontal distance between the front and rear lot lines.
<b>Lot, Double Frontage</b>	Any lot with frontage on two parallel or approximately parallel streets.
<b>Lot, Front Line of</b>	The boundary of a lot bordering on a street. For the purpose of determining yard requirements on a corner lot, the narrower side

bordering on a street is the front yard except that if the lot is square or nearly so (dimensions with a ratio of between 3:2 and 3:3), the owner may choose which of the two is to be considered the front yard.

**Lot, Rear Line of**

That boundary which is opposite and more or less parallel to the front lot line. In the case of an L-shaped or other irregularly-shaped lot where two or more lines are so located, all shall be considered to be rear lines, except such as may be within 50 feet of the front lot line, or which may be 20 feet or less in length. In the case of a lot which comes to a point at the rear, the rear lot line shall be that imaginary line parallel to the front lot line, not less than 10 feet long, lying wholly within the lot farthest from the front lot line.

**Lot, Width**

The width of a lot at the front yard setback line.

**Manufactured Home  
(not allowed in any zone)**

A manufactured home or modular home that is a single-family dwelling with a heated area of at least 36 by 24 feet and at least 864 square feet, constructed in a factory to the standards of the United States Department of Housing and Urban Development, the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 USC 5401 et seq.) and the Housing and Urban Development Zone Code II or the Uniform Building Code, as amended to the date of the unit's construction, and installed consistent with the Manufactured Housing Act (NMSA 1978, § 60-14-1 et seq.) and with the regulations made pursuant thereto relating to the ground level installation and ground anchors.

**Master Plan**

A plan, consisting of maps, texts, examples, charts or tables, which expresses the intent of anticipated construction; including uses, districts, zones, densities, intensities and restrictions; generally prepared for large-scale, multi-purpose intents. When prepared under the provisions of Section 14 of this Ordinance (Planned Development District), such plan, if approved by the District, becomes the basis for any zoning, use and procedural determinations for that area (until abandoned or revised).

**Medical Clinic**

An establishment where patients are admitted for examination and treatment.

**Mobile Home  
(not allowed in any zone)**

A vehicle without motive power, designed to be drawn by a motor vehicle and to be used as a temporary or permanent human habitation. May be a trailer coach, trailer home, mobile home or house trailer, whether the same be with or without wheels, and whether or not attached to or incorporated in a building. Also that part of any self-propelled vehicle, attached or unattached, whether

the same be with or without wheels, and whether or not attached to or incorporated in a building.

<b>Mobile Home Court (not allowed in any zone)</b>	Any lot on which two or more mobile homes are used for human habitation.
<b>Motel</b>	Any building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance directly from the outside of the building with a garage or parking space conveniently located on the lot, and designed, used, or intended wholly or in part for the accommodation of automobile transients. The term “motel” includes motor court, motor lodge, and tourist court, but not mobile home court.
<b>Multi-Family Dwelling</b>	A structure containing two or more dwelling units.
<b>Multi-Family Residential</b>	That allowable intensity of residential development as regulated under Section 9 of this Ordinance.
<b>Net Site Area</b>	The land area of a site or parcel, in acres, exclusive of existing and proposed public rights-of-way, parks, public open spaces, drainage dedications and reservations or other conveyances to the public. Drainage dedications and reservations, as used herein, mean channel or arroyo widths as specified by the District, A.M.A.F.C.A. or other agency determining such reservations and alignments. See also Gross Site Area.
<b>Non-conforming</b>	Any building or structure or portion thereof, or use of a building or land which does not conform to the zoning regulations and which lawfully existed on the effective date of those regulations with which it does not conform.
<b>Non-Profit Animal Facility</b>	Any facility or premises, not operating for profit, where six or more dogs and/or cats or aggregate thereof, over four months of age are kept or maintained; it includes shelters and refuges, with the exception of state inspected veterinary hospitals, federally inspected laboratory facilities and zoos.
<b>Nursing Home</b>	A home for the aged or infirm, located in any C-1 or C-N zone, in which three or more persons not of the immediate family are received, kept or provided with food and shelter or care, for compensation, but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

<b>Office</b>	A place where consulting, record keeping, the work of a professional person such as a physician or lawyer or a headquarters of an enterprise or organization, with incidental sales of goods or services.
<b>Open Storage</b>	Storage of any material, equipment or item outside an enclosed building.
<b>Owner</b>	The word “owner” shall, when applied to a building or land, include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or of a part of such building or land.
<b>Parking Space, Off-Street</b>	An area at least 10 feet in width and 20 feet in length, not permanently reserved for the intermittent storage of one automobile and connected with a street or alley by a driveway which affords ingress and egress for an automobile without requiring another automobile to be moved. On areas accommodating 10 or more vehicles, up to 25 percent of the parking area may be calculated using 9 foot by 16 foot areas (stalls) for small vehicles. Without specific designation of stall or vehicle areas, 325 sq. ft. per vehicle (includes trafficways) may be estimated for all off-street parking areas (10 or more total vehicles).
<b>Permissive Use</b>	A use of land, structure, building, or facility in a zone as permitted in this ordinance.
<b>Person</b>	Any individual, firm, co-partnership, joint venture association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, syndicate, political subdivision, or other group or combination, acting as a unit.
<b>Planned Development</b>	Any project, area, district or proposed combination of uses, densities or intensities that complies with Section 14 of this ordinance and is proposed to be constructed in conformance with a Master Plan (Development Plan, Planned Unit Development, etc.) as approved by the District.
<b>Premises</b>	A lot, together with all buildings and structures thereon.
<b>Recreational Camp</b>	An institution devoted primarily to outdoor activities.
<b>Recreational Vehicle</b>	A vehicular unit not exceeding 40 ft. in body length, 8 ft. in width, or 11 ft, in overall height, primarily designed as a temporary living quarters for recreational, camping, or travel use; it either has its own motive power or is designed to be mounted on or drawn by an automotive vehicle. Recreational vehicle includes motor home, truck camper, travel trailer, and camping trailer.

<b>Roadway</b>	The word “roadway” means that portion of a street improved, designed or ordinarily used for vehicular traffic.
<b>School</b>	A place utilized by an organized body to educate, cultivate, or advance mentally or culturally, i.e., private or public school, academies, universities, day care centers, instructions in crafts, fine art, dance, music, martial arts, etc.
<b>Service Station</b>	Any land, building, structure, or premises used for the sale, at retail, of motor vehicle fuels, oil or accessories, or for servicing or lubricating motor vehicles or installing or repairing parts and accessories, but not including the repairing or replacing of motors, bodies, or fenders of motor vehicles, or painting motor vehicles, and excluding public garages.
<b>Setback</b>	The shortest distance between a structure and the present or future street line or property line, or right-of-way line of a private access road.
<b>Shopping Center</b>	An integrated retail commercial development occupying five or more acres of total site area under a single ownership, control, or interest.
<b>Sidewalk</b>	The word “sidewalk” means any portion of the street between the curb or the lateral line of the roadway and the adjacent property line intended for the use of pedestrians.
<b>Sign</b>	An identification, description, illustration, or device which is affixed to or represented directly or indirectly upon a building, structure, or land, and which directs attention to a product, place, activity, person, institution, or business. A back-to-back sign or V-shaped sign or a billboard constitutes one sign if it employs a common set of supports and if the signs are at some point within ten feet of each other.
<b>Sign, On-Premises</b>	A sign which directs attention to a product, place, activity, person, institution or business on the site where the sign is located, including portable signs.
<b>Sign, Off-Premises</b>	A sign which directs attention to a product, place, activity, person, institution or business not located on the site where the sign is located, including portable signs.
<b>Sign, Political</b>	A sign erected by an individual for the purpose of announcing candidacy for an announced position. Political signs are only allowed in connection with an election organized by the Bureau of Elections. The signs may be placed in any zone, but no more than 60 days before the scheduled election, and must be removed within 10 days after the election.

<b>Single Family Dwelling</b>	A building designed to be occupied by one family and containing one kitchen, and designed to be a permanent structure, and taxed as real estate.
<b>Site Development Plan</b>	A map or maps with text that may show proposed building configurations, heights, colorations, elevations and other structural elements, together with proposed walls, landscaping, berms, parking, grading, drainage, access, paving, schedule of development, and site elements on and adjacent to the lot(s) proposed for development. Requirements for all elements of the site plan shall be as determined by the District Zoning Commission (see Section 13). Site Development Plans (Site Plans) become the basis for building permits (conformance with approved drawings).
<b>Solid Wall or Fence</b>	A wall, fence or similar enclosure which is visually solid. It may include natural screens such as ditch banks, chain link fences with slats, evergreen hedges, trees planted 6 feet or less apart depending on the type of trees, and decorative walls which may be openings; and provided the total area of all the openings in such walls does not exceed 25 percent of the total area of the surface of these walls and further provided these openings are evenly distributed over the entire surface of such walls.
<b>Special Use</b>	The Paradise Hills Special Zoning District Commission may authorize the location of uses in any zone in which they are not permitted by other sections of this ordinance, in accordance with Section 13, Special Use Permit Regulations.
<b>Square Footage</b>	For the purpose of computing fees, the area shall be computed as the gross area under the roof (excluding overhangs).
<b>Stand</b>	A structure for display and sale of products with no space for customers within the structure itself.
<b>Story</b>	That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it; or, if there be no floor above it, then the space between such floor and the ceiling next above it.
<b>Street</b>	That portion of a public right-of-way or private way or thoroughfare which is primarily devoted to vehicular use. Such right-of-way or thoroughfare normally shall provide access to abutting property.
<b>Structural Alterations</b>	Any change except those required by law or ordinance, which would prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams or girders, not including openings in bearing walls as permitted by other ordinances.

<b>Structure</b>	Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground, including, but without limiting the generality of the foregoing, fence or wall, advertising signs, billboards, backstops for tennis courts, and pergolas, but not including tents or vehicles.
<b>Variance</b>	A discretionary waiver from the zoning requirements to grant the property owner reasonable use of his land.
<b>Vision Clearance</b>	A triangular space at the street corner of a corner lot, which is bounded by the street right-of-way lines and a line connecting points located 25 ft. distant from the intersection, or projected intersection, of the street right-of-way lines, within which no obstruction to view between 3 ft. and 8 ft. above the street level shall be placed or maintained.
<b>Yard</b>	An open space, other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this ordinance.
<b>Yard, Front</b>	An open area, extending across the full width of a lot, the depth of which is the shortest distance between the front lot line and the front wall of the main building.
<b>Yard, Rear</b>	An open area, extending across the full width of a lot, the depth of which is the shortest distance between the rear wall of the main building and the rear lot line.
<b>Yard, Side</b>	An open area between the side lot line and the side of the main building, extending from the front yard to the rear yard.
<b>Zoning Certificate</b>	The certificate required in Section 20 hereof.
<b>Zone Map</b>	A map delineating the zone boundaries.

## Section 6 ZONES

A. In order to carry out the provisions of this ordinance, the District Zoning Commission of Paradise Hills recognizes six (6) zoning classifications, which shall be known as:

- A-1 Rural Agricultural Zone
- R-1 Single Family Residential Zone
- R-2 Mid-Density Zone
- C-N Neighborhood Commercial Zone
- C-1 Commercial Zone
- M-1 Light Industrial Zone

B. The zones and boundaries of zones are shown on the maps attached hereto and made a part of this ordinance. The maps shall be designated as the "Zone Maps." All notations and reference shown on the "Zone Maps" are as much a part of this ordinance as though specifically described herein.

1. The zone boundaries are either streets or alleys unless otherwise shown, and where the designation on the "Zone Map" indicates that the various zones are approximately bounded by a street or alley line, such street or alley line shall be construed to be the zone boundary line. In case of any uncertainty, the matter shall be referred to the District Zoning Commission.
2. Where the zone boundaries are not otherwise indicated and where the property has been divided into blocks and lots, the zone boundaries shall be construed to be lot lines and where the designations on the "Zone Maps" are approximately bounded by lot lines, said lot lines shall be construed to be the boundary of the zone. In case of any uncertainty, the matter shall be referred to the District Zoning Commission.
3. In subdivided property, the zone boundary lines shown on the "Zone Maps" shall be determined by use of the scale shown on such map.
4. In the event any street, alley, drainageway or other public way forming the boundary of a zone is vacated, the new zone boundary shall be the former centerline of said vacated street, alley, drainageway or other public way.

C. All territory which may hereafter become a part of the District Zoning Commission, or which for other reasons may fall within the jurisdiction of the District Zoning Commission, shall automatically be classified in the A-1 Zone until appropriately reclassified in accordance with the provisions of Section 21 of this ordinance.

D. In the event the Zone Maps do not show the zoning of any area within the Special Zoning District, such area automatically shall be classified in the A-1 Zone.

E. All property is governed according to the zone in which it is located. Any use not designated a permissive or conditional use in a zone is specifically prohibited from that zone, except as otherwise provided herein.

**Section 7**  
**A-1 RURAL AGRICULTURAL ZONE**

A. The regulations set forth in this section or set forth in this ordinance, when referred to in this section, are the regulations in the A-1 Rural Agricultural Zone. The purposes of this zone are to safeguard the future water supply, to provide open and spacious development, and to recognize the desirability of carrying on compatible agricultural operations and spacious home developments in areas near the fringes of urban development.

B. **Use Regulations.** A building or premise shall be used only for the following purposes. All uses customarily incidental to the building or premises shall be maintained on site:

1. **Permissive Uses.**

- a. Ranch, farm, dairy, and rural residential activities.
- b. Stand for the display or sale of garden products raised on the premises.
- c. One single-family dwelling per acre or per lot of record. Only site built homes are allowed.
- d. Accessory building, structure, or use customarily incidental to the above uses.
- e. Storage of a recreational trailer or boat when such trailer or boat is not to be used as a dwelling or as accessory living quarters, and is not connected to utilities, other than temporarily to a source of electricity. Such units cannot be used for storage of goods, materials, or equipment other than those items considered to be a part of the unit or essential for its immediate use. Recreational vehicle used for dwelling purposes served only by electricity for lighting purposes, the use of such recreational vehicle shall be limited to a maximum of two weeks in any calendar year. In the event where rear yard access is not available, outside parking in the front yard is allowed, provided the body of the recreational vehicle or boat is at least 11 feet from the front property line, and no part of the unit extends onto the public right-of-way. A corner lot is always deemed to have reasonable access to the rear yard; a fence or wall is not necessarily deemed to prevent reasonable access.
- f. Home occupations.
- g. Signs not exceeding 16 sq. ft. in area per sign and not exceeding a height of 10' from ground level, pertaining to the lease, hire or sale of a premises or sale of home-raised products, provided there shall be no more than one such sign per acre of lot area, and provided further that, if illuminated, the source of such illumination shall be non-oscillating and non-flashing.
- h. Parking incidental to uses permitted in this zone, provided all vehicles parked are in operative condition.

2. **Conditional Uses.** The following uses may be permitted, if approved by the District Zoning Commission, in accordance with the procedures and under the conditions set out in Section 20 of this ordinance, with additional requirements deemed necessary to safeguard the best interest of the adjoining property, neighborhood, and the community.
  - a. Church and incidental facilities.
  - b. Day Care Center.
  - c. Family Day Care Home.
  - d. School.
  - e. Public utility structure, such as transformer, switching, pumping, and similar technical operations essential to the operation of a public utility.
  - f. Temporary storage building or living quarters, or yard for equipment, material or activity incidental to a specific construction project not to exceed one year.

C. **Height Regulations.** Buildings and structures shall not exceed either 26 feet or two and one-half stories in height, except as provided in Section 16 of this ordinance.

D. **Area Regulations.**

1. **Minimum Lot Area & Lot Width.** Every lot shall have an area of not less than 1 acre and an average width of not less than 150 feet.
2. **Setbacks.** Minimum front yard setback shall be 25 feet, minimum side yard shall be 15 feet, and the minimum rear yard shall be 25 feet except as provided in Section 16 hereof.

E. **Parking Requirements.** Off-street parking for all uses must be provided in accordance with the Regulations set forth in Section 15 of this ordinance; all vehicles must be in operative condition.

**Section 8**  
**R-1 SINGLE-FAMILY RESIDENTIAL ZONE**

A. The regulations set forth in this section or set forth elsewhere in this ordinance, when referred to in this section, are the regulations in the R-1 Residential Zone. The purpose of this zone is to provide for the development of single-family homes where community water and sewer facilities are available. The minimum lot size shall be 8,000 sq. ft. unless within an area designated by Section 14 (Planned Development District) or governed by Section 13 (Special Use Permit). Planned Developments and Special Use Permits with underlying R-1 zoning, unless specified otherwise (with common open space, unique site features, irregular parcels, etc.) shall be considered for a minimum lot size of 6,000 sq. ft. or the equivalent density. The regulations provide for the health, safety and welfare of the residents.

B. **Use Regulations.** A building or premises shall be used only for the following purposes. All uses customarily incidental to the building or premises shall be maintained on site:

1. **Permissive Uses.**

- a. One single-family dwelling per lot. Only site built homes are allowed.
- b. The keeping of commonly domesticated household pets.
- c. Home occupation
- d. Accessory building, structure, or use customarily incidental to the above uses.
- e. Signs not exceeding 4 sq. ft. in area pertaining to the lease, hire, or sale of a premises, provided there shall be no more than one such sign on each lot, and shall not be illuminated.
- f. Parking incidental to use permitted in this zone, provided all vehicles not parked inside a building are in operative condition.
- g. Recreational vehicle or boat storage in the rear yard when such recreational vehicle or boat is not to be used as accessory living quarters, and is not connected to utilities, other than temporarily to a source of electricity. Recreational vehicle used for dwelling purposes served only by electricity for lighting purposes, the use of such recreational vehicle shall be limited to a maximum of two weeks in any calendar year. In the event where rear yard access is not available, outside parking in the side yard is allowed, provided the body of the recreational vehicle or boat is at least 11 feet from the front property line, and no part of the unit extends onto the public right-of-way. A corner lot is always deemed to have reasonable access to the rear yard; a fence or wall is not necessarily deemed to prevent reasonable access.
- h. **Garage or Yard Sale** No more than four garage or yard sales are allowed at a given dwelling in any calendar year. The duration of the garage or yard sale shall not exceed three consecutive days.

No items shall be purchased for a garage or yard sale for the purpose of resale. Items shall be of the type normally accumulated by a household.

One non-illuminated, on-premises sign, not exceeding four square feet in area shall be permitted. The sign shall pertain to the garage or yard sale only and shall be permitted only for the three-day period of the sale.

2. **Conditional Uses.** The following uses may be permitted if approved by the District Zoning Commission in accordance with the procedures and under the conditions set out in Section 22 of this ordinance with additional requirements deemed necessary to safeguard the best interest of the adjoining property, neighborhood, and the community.

- a. Church and incidental facilities.
- b. School.
- c. Day Care Center.
- d. Family Day Care Home.
- e. Real estate sales office and real estate signs exceeding the limitations in Subsection B.(1).g. above in connection with a specific development for a period of not more than 2 years.
- f. Temporary storage building or yard equipment, material or activity incidental to a specific construction project not to exceed one year.
- g. Mobile home used as a dwelling (with connections to any utilities) during the constructions of a dwelling on the same premises, provided such use shall be limited to a maximum period of 8 months, such period commencing with the issuance of a permit for the construction of the dwelling.
- h. On-site liquid waste disposal as an interim solution until community lines are made available. Temporary on-site disposal shall comply with the regulations of Bernalillo County and New Mexico Environmental Improvement Agency as to lot sizes, location, and other criteria.

C. **Height Regulations.** Buildings and structures shall not exceed either 26 ft. or two and one-half stories in height.

D. **Area Regulations (Unless governed by SU or PD).**

~~E.1.~~ **Minimum Lot Area & Lot Width.** Every lot shall have a minimum area of not less than ½ acre and a minimum lot width of 80 ft., except that where community water

and sewer facilities are available, the minimum lot area shall be 8,000 sq. ft. and the minimum lot width shall be 60 ft. at the front setback line.

2. **Front Yard.**

- a. There shall be a front yard setback having a depth of not less than 20 ft., except as provided in Section 16 of this ordinance.
- b. Where lots have double frontage, the required front yard setback shall be provided on both streets.

3. **Side Yard.**

- a. Except as hereinafter provided in the following paragraph and in Section 16 of this ordinance, there shall be a side yard on both sides of a building the aggregate width of which shall not be less than 25 percent of the minimum lot width, provided however, that neither such yard shall be less than 6' in width. Special provisions of a Planned Development or Special Use Permit may allow for other side yard dimensions such as attachments or zero-lot-line construction (within the densities allowed with the zone).
- b. Wherever a lot of record, at the effective date of this ordinance, has a width of less than 80', each side yard may be reduced to a width of not less than 10 percent of the width of the lot, but in no instance shall it be less than 5 ft.

4. **Rear Yard.** Except as hereinafter provided in Section 16 of this ordinance, there shall be a rear yard having a depth of not less than 20 ft.

E. **Parking Requirements.** Off-street parking for all uses must be provided in accordance with the regulations set forth in Section 15 of this ordinance.

F. **Outdoor Lighting.** Refer to Restrictions on Outdoor Light Fixtures, Section 18 of this ordinance.

## Section 9

### R-2 ZONE (Multi-Family Residential)

A. The regulations set forth in this section or set forth elsewhere in this ordinance, when referred to in this section, are the regulations in the R-2 Multi-Family Residential Zone. The purpose of this zone is to permit in appropriate areas a higher density of population than in R-1 zoning and still maintain a residential environment. This one, when combined with the provisions of PD (Section 14) and SU (Section 13), allows for diversity of single and multiple-family projects (patio homes, townhouses, condominiums and attached or detached residential structures) exceeding the density limitations of the R-1 Zone.

B. **Use Regulations.** A building or premises shall be used only for the following purposes with additional requirements deemed necessary to safeguard the best interest of the adjoining property, neighborhood, and the community:

1. **Permissive Uses.**

- a. Any Permissive Use permitted in the R-1 Residential Zone.
- b. Single and multi-family dwellings, attached or detached structures.

2. **Conditional Uses.** The following uses may be permitted if approved by the District Zoning Commission, in accordance with the procedures and under the conditions set out in Section 22 of this ordinance.

- a. Any Conditional Use permitted in the R-1 Residential Zone.

C. **Height Regulations.** Structures may not exceed 26 ft. in height nor exceed a height-distance angle of 30 degrees from which the property lines of abutting land zoned A-1 and R-1 which is unimproved or is improved with a conforming Permissive Use. Special provisions of a Planned Development or Special Use Permit may allow increases in maximum building height if so specified on the plan(s).

D. **Area Regulations.**

1. **Minimum Lot Area and Lot Size.** The minimum lot area per complex shall be 8,000 sq. ft.; the maximum building shall not exceed eight units per structure; and the minimum lot width shall be 80 ft. for lots (tracts) with apartment (multi-family) and condominium use, provided community water and sewer facilities are made available. For projects designated a Planned Development or Special Use Permit, lot widths for conveyance to owners residents, (fee title) will be as specified on the Site Development Plan, but in no event less than 22 ft.
2. **Front Yard.**

- a. There shall be a front yard setback having a depth of not less than 20 ft., except as provided in Section 16 of this ordinance.
- b. Where lots have a double frontage, the required front yard setback shall be provided on both streets.

3. **Side Yard.**

- a. Except as hereinafter provided in the following paragraph and as provided for in Sections 13, 14 and 16 of this ordinance, there shall be a side yard on both sides of a building or buildings (between the exterior property lines of the tract and the project's structures), the aggregate width of which shall not be less than 20 ft., provided however, that neither such yard shall be less than 8 ft. in width. Minimum side yards (or separation between buildings) within the project shall not be less than 8 ft.
- b. Wherever a lot of record, at the effective date of this ordinance, has a width of less than 80 ft., each side yard may be reduced to a width of not less than 10 percent of the width of the lot, but in no instance shall it be less than 5 ft.

4. **Rear Yard.** Except as hereinafter provided in Sections 13, 14 and 16 of this ordinance, there shall be a rear yard having a depth of not less than 20 ft.

5. **Density.** Except as provided for in Sections 13 and 14, every building hereafter erected or structurally altered for dwelling purposes shall comply with the following density requirement:

A floor area ratio of 0.5 is permitted provided community water and sewer facilities are made available.

6. **Landscaping.** Refer to Section 17 of this ordinance.

E. **Parking Requirements.** Off-street parking for all uses must be provided in accordance with the regulations set forth in Section 15 of this ordinance.

F. **Usable Open Space.** Usable open space shall be provided on-site in an amount equal to 200 square feet for each efficiency or one bedroom dwelling unit, 250 square feet for each two bedroom dwelling unit, and 300 square feet for each dwelling unit containing three or more bedrooms. Where an aggregate of two or more dwelling units is constructed on any given lot, the development shall plant and maintain according to the Landscaping and Buffer Landscaping Section of this ordinance.

G. **Outdoor Lighting.** Refer to Restrictions on Outdoor Light Fixtures, Section 18 of this ordinance.

## Section 10

### C-N NEIGHBORHOOD COMMERCIAL ZONE

A. The regulations set forth in this section or set forth elsewhere in this ordinance, when referred to in this section, are the regulations in the C-N Neighborhood Commercial Zone. The purpose of this zone is to provide for retail business and services serving primarily the residents of the neighborhood and to minimize any adverse effects on nearby residential development and to regulate any accessory commercial uses within residential districts so designated on a Planned Development (Section 14).

B. **Use Regulations.** A building or premises shall be used only for the following purposes with additional requirements deemed necessary to safeguard the best interest of the adjoining property, neighborhood, and the community:

1. **Permissive Uses.**

a. Any permissive use allowed and as regulated in the R-1 Single-Family Residential Zone and the following, and all uses customarily incidental to the building or premises shall be maintained on site:

- (1) Art, antique or gift shop.
- (2) Bakery goods shop or confectionery store wherein a majority of the products are sold on the premises and at retail.
- (3) Bank.
- (4) Beauty or barber shop.
- (5) Book or stationery store.
- (6) Church, including the usual incidental facilities, mission (rescue), or revival meeting place.
- (7) Drug store or pharmacy.
- (8) Feed store (retail) provided all outside storage is enclosed by a solid wall or fence 6 ft. high on all sides.
- (9) Grocery, fruit, vegetable or delicatessen store, meat market.
- (10) Hardware store, except the storage of lumber.
- (11) Laundry, washateria, laundromat.
- (12) Medical clinic.

- (13) Newsstand.
- (14) Nursery or greenhouse, provided all outside storage other than plant material is enclosed by a 6 ft. solid wall or fence on all sides.
- (15) Office.
- (16) Restaurant.
- (17) Stand for the sale of fruit, vegetables, or nursery stock.
- (18) Sign, provided:
  - (a) **Location Criteria:** It is located on private property and advertises, identifies, or directs to a use currently conducted on the same premises. Said sign must comply with the following requirement:
    - i. One, 2-sided sign attached to a building, no higher than 16' from the ground level.
  - (b) **Number of Signs:** Not more than one sign is permitted for any one business with street frontage of 50 ft. or less. Not more than two signs are permitted for any one business with more than 50 ft. of street frontage. A composite group of small signs integrated into one framed unit shall constitute one sign.
  - (c) **Size of Signs:**
    - i. The total area of any one sign face shall not exceed 16 sq. ft.
    - ii. The total aggregate of all faces of signs or combination of signs allowed for the property on which the use is located shall not exceed 65 sq. ft. of sign area.
    - iii. Business fronting on more than one street will not be allowed additional square footage of sign area.
    - iv. Sign height shall be additionally limited to the maximum building height, including any height/distance angle restrictions within any P.D. and S.U. permitted areas.
  - (d) **Exceptions:**

- i. Signs having less than 4 sq. ft. in area per sign face and manufacturer's produce display racks are considered as exceptions to Subsection 18 (b) and (c) supra, provided no customer service area shall extend closer than 10 ft. to the nearest right-of-way line of a public street.
- ii. On-premise signs without advertising, directing on-premise customer traffic or directing to specific customer service areas, shall be allowed in excess of the number and square footage limitations in Subsection 18 (b) and (c) supra, provided the aggregate area of such signs shall not exceed 10 sq. ft. per business location.

(e) **Illuminated Signs:** Illuminated signs, except illuminated clocks, thermometers, and illuminated signs within a building, shall be turned off at 11:00 p.m. or closing, whichever is later. No illuminated signs shall be so located as to shine directly into adjacent conforming residential property.

(f) **Blinking & Revolving Signs:** No flashing, oscillating, revolving or blinking signs shall be allowed.

(g) **Audible Devices:** The sign shall have no audible devices.

(h) **Amortization:** See Non-Conforming Uses, Section 19.

(i) **Determination of Sign Size:** The sign area shall be measured as follows:

- i. Square or Rectangular Sign: Length times the height of the face of the sign.
- ii. Irregularly-shaped Sign: Area of rectangles, circles, ovals, triangles, or a combination thereof, necessary to enclose the face of the sign.
- iii. Sign Made of Individual Cutout Letters: Sum of the area of the rectangles or triangles necessary to enclose each letter.

2. **Conditional Uses:** The following uses may be permitted if approved by the District Zoning Commission in accordance with the procedures and under the conditions set forth in Section 22 of this ordinance.

- a. Clothing or shoe store, dry goods store, tailor, custom dressmaking or millinery shop.

- b. Florist.
- c. Interior decorating shop.
- d. Jewelry store.
- e. Notions store.
- f. Photography studio.
- g. Shoe repair shop, shoeshine stand.
- h. Studio for instruction of music, dance or martial arts.

C. **Height Regulations.** The same regulations apply as in the R-2 Multi-Family Zone.

D. **Area Regulations.**

1. **Front Yard.** There shall be a front yard setback having a depth of not less than 30 ft.
2. **Side Yard.** No side yard is required except for building hereafter erected or structurally altered for residential use, in which case the side yard regulations of the R-1 Zone shall apply. In all other cases, a side yard is required only on the side of a lot abutting an A-1, R-1 or R-2 Zone in which case there shall be a side yard conforming to requirements of adjacent property.
3. **Rear Yard.** Except as hereinafter provided in Section 16, there shall be a rear yard having a depth of not less than 15 ft.
5. **Off-Street Parking Spaces, Loading & Unloading Spaces.** Off-street parking spaces and loading and unloading spaces shall be provided in accordance with requirements for specific uses set forth in Section 15 of this ordinance.
6. **Floor Area.** The gross building floor area occupied by any one business shall not exceed 4,000 square feet.

E. **Landscaping.** Refer to Landscaping and Landscaping Buffer Requirements, Section 17 of this ordinance.

F. **Outdoor Lighting.** Refer to Restrictions on Outdoor Light Fixtures, Section 18 of this ordinance.

G. **Hours of Operation.** Any permitted or conditional use in the C-N Neighborhood Commercial Zone which operates 24 hours a day, or after 10 P.M. and before sunrise, shall have an attendant on the premises after 10 P.M. until sunrise.

H. **Pollution Control.** It is only reasonable to expect each property occupant shall be responsible for keeping all trash, litter and debris from blowing off the property, and to maintain the cleanliness of the area.

## Section 11

### C-1 COMMERCIAL ZONE

A. The regulations set forth in this section, or set forth in this ordinance, when referred to in this section, are the regulations in the C-1 Commercial Zone. The purpose of this zone is to provide for commercial uses, to regulate such uses in such a manner as to provide protection for commercial uses, encourage commercial development in optimum locations for commercial use, and minimize any adverse effects on nearby residential development.

B. **Use Regulations.** A building or premises shall be used only for the following purposes and with additional requirements deemed necessary, to safeguard the best interest of the adjoining property, neighborhood, and the community:

1. **Permissive Uses.**

a. Any permissive use allowed and as regulated in the R-2 Multi-Family Residential Zone and the following:

- (1) Antenna (tower), freestanding or attached to a building or other structure, and shall not exceed 26 feet in height.
- (2) Art, antique or gift shop.
- (3) Bakery goods shop or confectionery store wherein a majority of the products are sold on the premises and at retail.
- (4) Bank or savings and loan association.
- (5) Beauty or barber shop.
- (6) Boarding or lodging house.
- (7) Book or stationery store.
- (8) Car wash, provided:
  - (a) A car wash which abuts a conforming residential use shall comply with Section 17, Landscaping and Buffer Landscaping Regulations.
  - (b) A car wash which operates 24 hours a day or after 10 P.M. and before sunrise shall comply with Section 11.G.
  - (c) A vehicle-moving plan is approved by the District Zoning Commission.

- (9) Church, including the usual incidental facilities, mission (rescue), or revival meeting place.
- (10) Clothing or shoe store, dry goods store, tailor, custom dressmaking or millinery shop.
- (11) Delivery service.
- (12) Drug store or pharmacy.
- (13) Dry cleaning, laundry, clothes pressing agency provided that:
  - (a) All activities are conducted within an enclosed building.
  - (b) Not more than 3 persons are engaged, exclusive of pressers, and office, clerical or delivery personnel.
  - (c) The establishment is operated principally as a retail business.
  - (d) That portion of the building in which any cleaning process is done shall be at least 50 ft. from any A-1, R-1, R-2 or C-N Zone.
  - (e) Only nonflammable or noncombustible materials are used in the cleaning process.
- (14) Feed store (retail) provided all outside storage is enclosed by a solid wall or fence 6 ft. high on all sides abutting R-1 or R-2 property.
- (15) Florist or gift shop.
- (16) Furniture, hardware, or home appliance store.
- (17) Garage for automotive repair, provided it complies with the following:
  - (a) Any automotive repair shall be conducted within a completely enclosed building located at least 20 ft. from any A-1, R-1 or R-2 property.
  - (b) Storage of not more than five (5) automobiles awaiting repair shall be permitted provided that the outdoor area in which such cars are stored shall be enclosed by a solid wall or fence at least 6 ft. high.
- (18) Grocery, fruit, vegetable or delicatessen store, meat market.
- (19) Health gymnasium, Turkish bath.

- (20) Hotel or motel.
- (21) Interior decorating.
- (22) Library or museum.
- (23) Jewelry store.
- (24) Laundry, washateria.
- (25) Medical Clinic.
- (26) Newsstand.
- (27) Notions store.
- (28) Nursery or greenhouse, provided all outside storage other than plant material is enclosed by a 6 ft. solid wall or fence on all sides abutting A-1, R-1 or R-2 property.
- (29) Office.
- (30) Paint store.
- (31) Pet shop, bird store, or taxidermi
- (32) Photography studio, printing, publishing, lithographing, blueprinting or photostatting establishment.
- (33) Radio or television studio.
- (34) Rental or sale of household, yard, and garden equipment, provided all storage is contained within an enclosed building or enclosed by a 6 ft. high solid wall or fence on all sides abutting A-1, R-1 or R-2 property.
- (35) Retail store, business or shop in which products may be manufactured, compounded, processed, assembled or treated, including carpentry, ceramics, furniture making, upholstering, sign painting, making of rubber or metal stamps, interior decorating, catering, baking, confectionery making, weaving, or jewelry or curio making, provided it complies with the following requirements:
  - (a) All activities shall be conducted within a completely enclosed building, and any outside storage shall be enclosed by a 6 ft. solid wall or fence on all sides.

- (b) The number of persons engaged in the manufacturing, processing, assembling or treating of products shall be limited to 10, excluding office, clerical or delivery personnel.
  - (c) Any such store shall be operated principally as a retail business.
  - (d) Activities or products shall not be objectionable due to odor, dust, smoke, noise, vibration, or other cause.
- (36) Restaurant provided:
- (a) There shall be no drive-in restaurant; and
  - (b) Alcoholic drinks may be sold only under a restaurant license for sale of beer and wine, as provided by NMSA 1978, § 60-6A-4.
- (37) School operated for profit, such as a day care center, trade school, or business college.
- (38) Shoe repair shop, shoeshine stand.
- (39) Sign, provided:
- (a) **Location Criteria:** It is located on private property and advertises, identifies or directs to a use currently conducted on the same premises. The location of such signs must comply with the following requirements:
    - i. A freestanding sign may not overhang into public right of way.
    - ii. The outer edge of a wall sign may protrude up to one foot (1'0") over the property line into the public right of way, provided the bottom edge of the sign is 8 ft. or more above the curb or sidewalk grade.
    - iii. Sign height shall be additionally limited to the maximum building height, including any height/distance angle restrictions within any P.D. and S.U. permitted areas.
  - (b) **Number of Signs:** Not more than one sign is permitted for any one business with street frontage of 50 ft. or less. Not more than two signs are permitted for any one business with more than 50 ft. of street frontage. A composite group of small signs integrated into one framed unit shall constitute one sign.

(c) **Size of Signs:**

- i. The total aggregate of all faces of signs or combination of signs allowed for the property on which the use is located shall not exceed 150 sq. ft. of sign area for the first 50 ft. of street frontage and 1 sq. ft. of sign area for each additional foot of street frontage.
- ii. Business fronting on more than one street will be allowed additional square footage of sign area to the extent of 50% of that allowed for their main street frontage.
- iii. For every linear foot of distance that a sign is set back from the nearest street right of way line, an increase of one (1) sq. ft. of sign area is permitted. However, this additional allowance will not be permitted if the sign is located within 175 ft. of any residential zone.

(d) **Height:** The height of a sign is measured from ground level at the base of the sign to the top of the highest part of the sign surface. The maximum height of any freestanding sign shall not exceed 16 ft. A sign mounted or attached to a building may extend up to but not more than 5 ft. above the height of the building, provided no direct illumination shall be visible from the rear of the sign.

(e) **Exceptions:**

- i. Signs having less than 4 sq. ft. in area per sign face and manufacturer's product display racks are considered as exceptions to Subsection 38 (b) and (c) supra, provided no customer service area shall extend closer than 10 ft. to the nearest right of way of a public street.
- ii. On-premises signs without advertising directing on-premise customer traffic or directing to specific customer service areas shall be allowed in excess of the number and square footage limitations in Subsection 38 (b) and (c) supra, provided the aggregate area of such signs shall not exceed 20 sq. ft. per business location.

(f) **Illuminated Signs:** Illuminated signs, except illuminated clocks, thermometers, and illuminated signs within a building,

shall be turned off at 11:00 p.m. or closing, whichever is later. No illuminated signs shall be so located as to shine directly into adjacent conforming residential property.

- (g) **Blinking & Revolving Signs:** No flashing or blinking signs except time and temperature signs shall be allowed within 200 ft. of any residential zone. Revolving signs shall not revolve at speeds exceeding 8 RPM. No power pack units shall be allowed.
- (h) **Audible Devices:** The sign shall have no audible devices.
- (i) **Amortization:** See Non-Conforming Uses, Section 19, A.(1).a.
- (j) **Determination of Sign Size:** The sign area shall be measured as follows:
  - i. Square or Rectangular Sign: Length times the height of the face of the sign.
  - ii. Irregularly-Shaped Sign: Area of rectangles, circles, ovals or triangles, or a combination thereof, necessary to enclose the face of the sign.
  - iii. Sign made of individual cutout letters: Sum of the area of the rectangles or triangles necessary to enclose each letter.

(40) Stand for sale of fruit, vegetables, or nursery stock.

(41) Studios for instruction in music, dance, or art.

2. **Conditional Uses:** The following uses may be permitted if approved by the District Zoning Commission in accordance with the procedures and under the conditions set forth in Section 22 of this ordinance.

- a. Amusement enterprise, provided any lighting shall be so located, screened, or shaded as not to reflect off the premises as follows:
  - (1) Baseball batting or archery range, provided the area shall be fenced or otherwise designed to prevent any balls or arrows from going off the premises.
  - (2) Circus, carnival, or enterprise of a similar type, provided it be located at least 300 ft. from any dwelling which is a conforming use, shall be permitted at one location of a period of not more than 7 days. The

hours of operation, including time of erection and dismantling of equipment, shall be between 6:00 a.m. and 12:30 a.m.

- (3) Golf driving range, including commercial activities specifically related to the operation of the use, such as pro shop for the sale or rental of golf equipment, and the usual concession stands, provided the site contains at least 6 acres and that fencing shall be provided, or the use so designed as to prevent balls from being driven off the premises.
  - (4) Kiddieland, including children's playground and children's amusement park, provided that amusement devices shall be located at least 300 feet from any dwelling; hours of operation shall be between 9 a.m. and 10 p.m.; lighting shall be so located, screened, or shaded as not to reflect off the premises; any public address system shall be modulated; any off-street parking area shall be subject to regulations as defined for a parking lot; ponies shall be permitted on the premises only during the hours of operation; and the site shall be enclosed by a wall or fence at least 6 ft. high.
  - (5) Miniature golf course.
  - (6) Music concerts.
  - (7) Swimming pool operated as a commercial enterprise including commercial activities specifically related to such use, such as the sale or rental of swimming equipment and the usual concession stands, provided any such use shall be enclosed by a wall or fence at least 8 ft. high. The hours of operation shall be limited to 6:00 a.m. to 11:00 p.m.
  - (8) Trampoline net center.
- b. Automobile or trailer sales or rentals, provided that any such area be surfaced with concrete or bituminous paving, any repair of automobiles or trailers shall be conducted within a building, and a solid wall or fence 6 ft. high shall be maintained along any side of such area abutting or contiguous to any A-1, R-1, R-2 or C-N zone. Trailers parked outside for rental or storage shall not exceed 35 feet in length, 12 feet in height, or have a registered weight capacity of 26,000 pounds. The body of the trailer shall not be over 14 feet unless it is a recreational vehicle.
  - c. Bar or lounge, liquor store.
  - d. Bus passenger terminal.
  - e. Clubs.

- f. Drive-in restaurant or refreshment stand, provided the site is enclosed by a solid wall or fence 6 ft. high on all sides abutting or contiguous to A-1, R-1, R-2 or C-N property.
- g. Firewood sales yard, provided it complies with the following:
  - (1) All outside storage is enclosed by a solid wall or fence at least 6 ft. high on all sides abutting any A-1, R-1, R-2 or C-N zone, and further provided that wood may not be stacked above the plane established by the top of the surrounding wall when a wall is required.
  - (2) No wood may be stored closer than 10 ft. to any property line or within 10 ft. of any structures.
  - (3) Any driveway or area accessible to motor vehicles shall be surfaced with gravel or other higher type paving.
- h. Hospital for animals, kennels, dog obedience club.
- i. Indoor amusement enterprise including auditorium, billiard or pool hall, bowling alley, boxing arena, dance hall, game of skill, theater, penny arcade, shooting gallery, skating rink, swimming pool.
- j. Institution, hospital or sanitarium.
- k. Lumberyard and building material sales (retail) provided all storage is within a building or enclosed by a 6 ft. solid wall or fence on all sides.
- l. Parking lot or structure.
- m. Pawn shop.
- n. Public utility use or structure necessary for transmission of commodities or services of a utility company.
- o. Secondhand store or flea market, provided that any outdoor storage shall be enclosed by a solid wall or fence 6 ft. high on all sides abutting A-1 or R-2 Zone.
- p. Service station, including the sale of liquefied petroleum gas for consumption, but not for resale, provided it complies with the following requirements:
  - (1) Limited to four (4) pump islands containing not more than four (4) pumps each.
  - (2) Any tire or tube repairing, minor vehicle repair or battery charging shall be conducted within a completely enclosed building.

- (3) If any lubricating, storage or washing is done outside a building, a solid wall or fence 6 ft. high shall be maintained between such activity and any abutting property.

q. Billboard or advertising structure provided:

- (1) It is located on private property and no closer than 125 ft. from the street right-of-way line.
- (2) The maximum height of the top of the sign shall not exceed 16 ft. from grade level at the base of the sign. In addition, the height-distance angle from a public right-of-way or a property line to the top of the sign at its closest point from such line shall not exceed 15 degrees.
- (3) No sign shall be illuminated by red, green, or amber lights which interfere with a traffic control signal or device. No power pack units shall be allowed.
- (4) The maximum area of any one sign face shall not exceed 40 sq. ft.
- (5) No such signs or billboards located within 660 ft. from a major street or highway and facing one direction of traffic shall be spaced closer together than 500 ft.

r. Transfer or storage of household goods, provided:

- (1) Ingress and egress are available from an arterial shown on the adopted Thoroughfare Plan.
- (2) Parking and maneuvering of trucks is permitted only off the street in a parking area as regulated by this ordinance.
- (3) Outside lighting is located, screened, or shaded so as to not reflect off the premises.
- (4) Servicing of trucks is permitted only within a building or an area completely enclosed by a solid wall or fence at least 8 ft. high.

C. **Height Regulations.** The same regulations apply as in the R-2 Zone except as provided in Section 16 of this ordinance.

D. **Area Regulations.**

1. **Front Yard.** There shall be a front yard setback having a depth of not less than 30 ft.

2. **Side Yard.** No side yard is required except for buildings or parts of buildings hereafter erected or structurally altered for residential use, in which case the side yard regulations of the R-1 Zone shall apply. In all other cases, a side yard is required only on the side of a lot abutting an A-1, R-1, R-2, or C-N Zone, in which case there shall be a side yard of not less than 50 ft.
3. **Rear Yard.** Except as hereinafter provided in Section 16, there shall be a rear yard having a depth of not less than 30 ft.
4. **Off-Street Parking Spaces, Loading and Unloading Spaces.** Off-street parking spaces and loading and unloading spaces shall be provided in accordance with requirements for specific uses as set forth in Section 15 of this ordinance.

E. **Landscaping.** Refer to Landscaping and Landscaping Buffer Requirements, Section 17 of this ordinance.

F. **Outdoor Lighting.** Refer to Restrictions on Outdoor Light Fixtures, Section 18 of this ordinance.

G. **Hours of Operation.** Any permitted or conditional use in the C-1 Commercial Zone which operates 24 hours a day, or after 10 P.M. and before sunrise, shall have an attendant on the premises after 10 P.M. until sunrise.

H. **Pollution Control.** Each property occupant shall be responsible for keeping all trash, litter and debris from blowing off the property, and to maintain the cleanliness of the area.

## Section 12

### M-1 LIGHT INDUSTRIAL ZONE

A. The regulations set forth in this section, or set forth elsewhere in this ordinance when referred to in this section are the regulations of the M-1 Light Industrial Zone. The purpose of this zone is primarily for light manufacturing, light fabricating, warehousing, and wholesale distribution with off-street loading and off-street parking for employees, and with access to arterial highways or railroads. For districts designated as a Planned Development (Section 14), the M-1 Zone is the appropriate underlying zone for mixed-use, commercial, business, office and multi-use areas (business parks) which may generate similar traffic, light, air, noise and appearance concerns.

#### B. Use Regulations.

1. **Prohibited Uses.** The following uses are prohibited in this zone unless existing as a non-conforming use (Section 19) or unless allowed by a special provision of a Planned Development (Section 14):
  - a. Church, library, school, hospital, or any residential use, except that each individual industrial use may provide accommodations for one resident watchman or caretaker employed on the premises.
2. **Permissive Uses.** A building or premises shall be used only for the following purposes:
  - a. Any permissive or conditional use listed and as regulated in the C-1 Zone except as qualified above.
  - b. Bottling plant.
  - c. Cold storage plant.
  - d. Feed or fruit storage or sales (wholesale) provided all outside storage is enclosed by a solid wall or fence 6 ft. high on all sides abutting A-1, R-1, R-2 or C-N property.
  - e. Foundry, casting of lightweight, non-ferrous metal provided there shall be no fumes or odors discernible beyond the premises.
  - f. Ice plant (wholesale).
  - g. Laboratory (experimental or testing).
  - h. Laundry, cleaning, or dyeing works including rug and carpet cleaning.
3. **Conditional Uses.** The following uses may be permitted if approved by the District Zoning Commission in accordance with the procedures and under the conditions set forth in Sections 13 and 16 of this ordinance:

- a. Building material storage and sales.
- b. Contractor's equipment storage, rental, or sales; contractor's plant.
- c. Food processing.
- d. Machine shop, blacksmith shop, ornamental iron shop, welding shop.
- e. Manufacturing, compounding, assembling or treatment of articles made from the following materials: bone, shell, cellophane, cork, fiber, fur, glass, horn, leather, precious or semi-precious metals or gems, paint (not involving a boiling process), paper, plastics, textiles, yarn, tobacco or wood.
- f. Manufacturing, compounding, processing, packaging, treating, assembling, maintaining, repairing, overhauling, or rebuilding of the following products: bakery goods, batteries, candy, cosmetic goods, toiletries, dairy products, drugs, pharmaceutical goods, electrical appliances, electronic instruments and devices, radios or phonographs, musical instruments, pottery, figurines, ceramics (provided only previously pulverized clay and kilns fired by electricity or gas shall be used), signs, including electric or neon, billboards, commercial advertising structures, toys, and novelties.
- g. Sheet metal working (light), including the making of heating and ventilating products or equipment, cornices, eaves.
- h. Warehouse.

C. **Height Regulations.** The same regulations apply as in C-1 Zone except as provided in Section 16 of this ordinance.

D. **Area Regulations.**

- 1. **Front Yard.** There shall be a front yard setback having a depth of not less than 30 feet.
- 2. **Side Yard.** Thirty feet (30') all around except on the side of a lot abutting an A-1, C-1, or C-N Zone, in which case there shall be a side yard of not less than 50 ft. In width, or a height/distance angle of 30 degrees to the structure, whichever is less restrictive.
- 3. **Rear Yard.** Except as hereinafter provided in Section 16, there shall be a rear yard having a depth of not less than thirty feet (30').
- 4. **Off-Street Parking and Loading/Unloading Spaces.** Off-street parking spaces, and loading and unloading spaces, shall be provided in accordance with requirements for specific uses set forth in Section 15 of this ordinance. All spaces shall be paved with bituminous or higher grade surface.

5. **Building Separation.** There shall be a minimum separation between adjacent, freestanding structures within the same zone of 15 ft. or, in the alternative, they may be attached.

6. **Floor Area Ratio.** A maximum permitted F.A.R. of 0.50.

E. **Landscaping.** Refer to Landscaping and Landscaping Buffer Requirements, Section 17 of this ordinance.

F. **Outdoor Lighting.** Refer to Restrictions on Outdoor Light Fixtures, Section 18 of this ordinance.

## Section 13

### SPECIAL USE PERMIT REGULATIONS

A. By Special Use Permit the District Zoning Commission may authorize the location of uses in any zone in which they are not permitted by other sections of this ordinance; the District Zoning Commission may likewise authorize the increase in height of buildings and any density, intensity, area, yard, lot and sign size limitations beyond the limits set by previous sections of this ordinance. With such permits, the District Zoning Commission may impose such conditions and limitations as it deems necessary:

1. To assure that the degree of compatibility of property uses which this section is intended to promote and preserve shall be maintained with respect to the specific use on the particular site and consideration of existing and potential uses of property within the zone and the general area in which the use is proposed to be located.
2. To assure that the proper performance standard and conditions are, whenever necessary, imposed upon uses which are, or which reasonably may be expected to become, obnoxious, dangerous, offensive or injurious to the health, safety, or welfare of the public, or a portion thereof, by reason of the emission of noise, smoke, dust, fumes, vibration, odor, or other harmful or annoying substances.
3. To preserve the utility, integrity and character of the zone in which the use will be located without adversely affecting adjacent zones.
4. To provide specific standards, allowances or limitations within some or all of the areas designated Planned Development (Section 14), thereby encouraging development performance (intent) in addition to the underlying zone, and providing for guidance in subsequent Site Plan preparations. Where so used, the provision of Special Use Permits (or intent to permit) generally allows an increase of building and development intensities and limitations and, if the P.D. is abandoned or S.U. revoked, the underlying zone becomes more restrictive.
5. To assure that the use will not be or become detrimental to the public interest, health, safety, convenience, or the general welfare.
6. The District Zoning Commission will review the application and progress of development three (3) years from the date of approval of the application and each year thereafter until completion of the plan, and if appropriate, make a decision as to continue or revoke the Special Use Permit.

B. Before the issuance of any special permit or uses, the application for such permit or uses shall be made in writing on forms prescribed by the District Zoning Commission. Each application shall be accompanied by development plans which shall:

1. Be drawn to a minimum scale of 1" = 100'.
2. Show boundaries of the property to be developed.

3. Show existing topography with contour intervals of not less than 2 ft.
4. Show the proposed size, elevation, location, use and arrangement of buildings, parking areas with proposed arrangement of stalls, and the number of cars, entrance and exit driveways, and their relationship to existing and proposed streets.
5. Show the drainage plan with sufficient control grades to indicate the intent of the developer.
6. Indicate the location, type, use and size of structures on adjacent properties within 200 ft. of the proposed development.
7. Provide for the dedication of any rights-of-way for the widening, extension, or connection of major streets or highways as shown on the Thoroughfare Plan as approved by the County.
8. Indicate the stages, if any, which will be followed in the construction of the development.
9. Show a general plan of landscaping within the site as required in Section 17, Landscape and Landscaping Buffer Regulations, as a condition of approval by the District Zoning Commission.
10. Show the location and size of off-street loading and unloading areas.
11. Provision for fire regulations and safety.

C. A fee of \$125.00 shall be charged at the time of application for a Special Use Permit. If the District Commission determines that review of the application requires additional professional services, the fee to the Applicant shall be \$125.00 plus the cost of those professional services. If the Applicant does not agree to the fees for professional services, the application shall be withdrawn by the District Zoning Commission, and the \$125.00 fee refunded to the Applicant. When an application is withdrawn after scheduling and advertising for public hearing by the District Zoning Commission, the filing fee shall not be refunded to the applicant.

D. Public hearings on all applications for Special Use Permits shall be held by the District Zoning Commission in accordance with the procedures for hearings on changes and amendments to this ordinance as prescribed in Section 22 of this ordinance. No building or occupancy permits shall be issued for any building or use that is not in accordance with the approved development plan.

E. Special Use designations shown within a Planned Development District Master Plan do not replace the requirements set forth in paragraphs "A" through "D" of this section (Public Hearings and Site Development Plan submittals). When so designated, such Master Plan approval also approves the intent to apply for S.U. permit. Applicants for such S.U. permits, when in conformance with the intent and specifications of the approved Master Plan, will not be denied on the basis of use, height, intensity or other specific provision recited on the Master Plan.

F. In approving any application, the District Zoning Commission shall impose minimum requirements as required by this section together with such additional requirements as the District Zoning Commission deems necessary to safeguard the public welfare, safety, health, morals, convenience of the neighborhood, and the community. Unless the permit specifies to the contrary, the special use so granted will continue for the life of the use.

G. Violation of any requirement imposed by the District Zoning Commission in approving an application filed under this section shall constitute a violation of this ordinance and shall be subject to the same penalties as any other violation of this ordinance. Any requirement imposed by the District Zoning Commission shall become effective and shall be strictly complied with immediately upon execution or utilization of any portion of the rights and privileges authorized by approval of an application.

H. In the event a use authorized by a Special Use Permit is discontinued, the Special Use Permit may be canceled and removed from the official zone maps by the District Zoning Commission 60 days after notification by certified mail to the property owner shown on the records of the Bernalillo County Assessor. Such action will be taken if the property owner does not declare in writing within the 60-day period, his or her intent to continue said permit.

I. Notwithstanding any provision of this ordinance to the contrary, the District Zoning Commission may within one year from the date of adoption of this ordinance grant a Special Use Permit for those uses for which plans are on file in the office of and have been approved by the Bernalillo County Zoning Administrator prior to November 13, 1978 on whatever terms of condition it deems necessary without requiring an application, and unless the permit specified to the contrary, the special use so granted will continue for the life of the use.

## Section 14

### PLANNED DEVELOPMENT DISTRICT

A. **Purpose.** The purpose of a Planned Development District is to create an “overlay” upon large, sensitive and undeveloped lands within the District’s jurisdiction. The underlying zoning (zone districts) is concurrent with the allowances, restrictions and limitations that may be recited on the Master Plan for a Planned Development District. The Planned Development Master Plan may simultaneously request zone changes (underlying) and may designate areas as appropriate for Special Use Permits (Section 13) which will subsequently require Site Plan review and approval, if applied for, by the District. In addition to guiding the planning, platting and permitting processes that follow, a Planned Development District intends:

1. To permit flexibility that will encourage a more creative approach in the development of land and will result in a more efficient use of open area, while maintaining density and area coverage permitted in the general zoning districts approved for the land (unless further restricted or relieved by the provisions of the Master Plan).
2. To permit flexibility in design, placement of buildings, and use of open spaces, circulation facilities, and off-street parking areas and to best utilize the potential of sites characterized by special features of geography, topography, size and shape.

B. **General Provisions.** A Planned Development is permitted on any tract or tracts in excess of 40 acres. Such acreage need not be contiguous. In every instance, the Planned Development is to be reviewed as to the location and character of the uses or intensities, and the unified treatment of the development of the tract. The regulations of the underlying zoning district(s) shall be permitted unless a subdivision plat, or site development plan, incorporating the provisions and requirements of this Section is submitted to and approved by the Zoning Commission and filed of record in the Office of the County Clerk of Bernalillo County.

C. **Uses Permitted in Planned Developments.** A Planned Development shall be considered an “overlay”, or an additional process to be reviewed in conjunction with a zoning request by the submission of a Master Plan. The simultaneous zoning (or rezoning) may include any and all zones currently adopted by the Paradise Hills Special Zoning Commission, including Special Use. The Special Use Permit (intent) is used where specific provisions of the Master Plan must be enforced by the review of a Site Development Plan prior to final platting or request for building permit.

D. **Accessory Uses, Residential Zones.** If the Planned Development and zoning request includes R-1 or R-2 zones, the aggregate of which is in excess of 40 acres, a percentage of that area shall be considered appropriate and reasonable for neighborhood commercial (C-N) as an accessory use. This designation may be in addition to other zones specified within the Planned Development area as C-N, C-1 and M-1 and need not be specifically described, detailed nor located at the time of rezoning and Master Plan approval, provided however:

1. The uses other than dwellings which are permitted in any residential area if such uses do not occupy more than 10 percent of the gross area of the residential zone, and are

designed and located so as to be compatible with the residential uses of the Planned Development and with the residential use of adjacent properties.

2. Such other uses within residential zones shall be considered as an Accessory Use, and an application for permit as Special Use and rezoning as C-N must accompany or precede the building permit or platting application.
3. Within a Planned Development, accessory commercial facilities may be included within residential zones in accordance with the following standards:
  - a. The commercial uses shall be limited and as specified on the S.U. Plan.
  - b. The aggregate floor area of the non-residential facilities shall not exceed 50 sq. ft. per dwelling unit or a total of 30,000 sq. ft. of floor area, regardless of the size of the residential district.
  - c. Each non-residential establishment shall be limited to a maximum of 4,000 sq. ft. of floor area and a floor area ratio of 0.20.
  - d. Non-residential signs shall be limited to one nameplate of not more than 16 sq. ft. for each establishment. Nameplates shall be attached flat against a building wall and shall not be animated, flashing, or have other than indirect illumination. Window signs shall not be permitted.
  - e. The non-residential accessory areas (within residential zones) shall be designed primarily for the service, convenience, and benefit of the residents of the Planned Development and shall be designed and located in such manner as to be compatible with the residential use of the Planned Development and of adjacent properties.

E. **Area Requirements.**

1. **Lot Width and Lot Area Minimums.** Within a Planned Development all lot, building, setback and other requirements for bulk/area restrictions within each zone, shall apply UNLESS otherwise restricted (or allowed) by Special Use Permit provisions.
2. **Number of Permitted Dwelling Units.** It is the intent of this District that the aggregate density and intensity of use within the Planned Development remain the same as that which would be permitted if the area were developed conventionally, but that within the Planned Development the permitted number of dwelling units may be reallocated irrespective of use district lines or lot lines. The maximum number of permitted dwelling units within a Planned Development shall be computed as follows:

Permitted D.U.'s equals residential area of Planned Development divided by minimum land area per D.U. permitted in the applicable residential zone.

The residential area for the purpose of the above-described computation shall be the gross area of the Planned Development less the areas designated for any use other than dwellings and quasi-dwellings. The minimum land area per dwelling unit for the purpose of the above-described computation shall be the least restrictive minimum land area per dwelling unit permitted in the applicable district. Each 600 square feet of a quasi-dwelling, such as a care home, shall constitute a dwelling unit. If the Planned Development is comprised of two or more Residential zones, the permitted density shall be the sum of the permitted dwelling units computed separately for the residential area within each zone.

3. **Livability Space.** Within a Planned Development, livability space shall be provided in an aggregate amount of not less than the amount of livability space required by the applicable use district for conventional development of a comparable number of dwelling units. Required livability space may be provided on the lot containing the dwelling unit or units on which computed, or in common areas. Common livability space shall be designed and located so as to be accessible to the dwelling units it is intended to serve. Provisions for the ownership and maintenance of common livability space, if any, will insure its continuity and conservation shall be incorporated in the subdivision plat.
4. **Building Height.** Within a Planned Development, the maximum building height, unless otherwise specified on the Master Plan or site specific S.U. Permit, shall be the maximum height allowed within the underlying zone(s).
5. **Yards.** Within a Planned Unit Development, there shall be no minimum yards except as may be provided within the Master Plan or S.U. Permit. However, 500 sq. ft. of usable open space per dwelling must be provided for the private use of each dwelling.
6. **Perimeter Requirements.** The building setback from the exterior boundaries of the Planned Development shall not be less than the minimum yards customarily required for the Zone or Zones in which located unless otherwise restricted, allowed or specified in the Master Plan or S.U. Permit.
7. **Off-Street Parking and Loading.** Off-street parking and loading spaces shall be provided as specified in the applicable zones in conformance with the requirements of the Zoning Ordinance. Required spaces may be provided on the lot containing the dwelling units for which it is intended to serve or in common areas. Common parking area shall be designed and located so as to be accessible to the dwelling units it is intended to serve. Provisions for the ownership and maintenance of common parking space as will insure its continuity shall be incorporated in the subdivision plat.

F. **Administration of Planned Development.**

1. **General.** Any person, corporation, partnership, association, or combination thereof owning or possessing a property right or interest in or to a tract or tracts located

within the jurisdiction of the Paradise Hills Special Zoning District may make application for the approval of a Master Plan provided in Section 14 above.

An application for the approval of a Master Plan for Planned Development must be processed simultaneously with and contingent upon an application for an amendment to the zoning map which, if successful, would result in the tract being placed in approved zones and/or special use specifications (permit) in addition to such zones.

2. **Application and Master Plans.** An application for a Planned Development shall be filed with the Paradise Hills Special Zoning District Commission. The application shall be accompanied by the payment of a \$250.00 fee. Such fee shall not include advertising and sign costs, which shall be billed to the applicant. The application shall be in such form and content as the District Commission may by resolution establish, provided that six (6) copies of the Master Plan shall accompany the filing of the application. If the District Commission determines that review of the application requires additional professional services, the fee to the Applicant shall be \$250.00 plus the cost of those professional services. If the Applicant does not agree to the fees for professional services, the application shall be withdrawn by the District Zoning Commission, and the \$250.00 fee refunded to the Applicant. The Master Plan shall consist of maps and/or text which contain:
  - a. Existing and topographic character of the land with soil types and limitations.
  - b. Proposed land uses, including public uses and open space and the approximate location or restrictions to building and other structures.
  - c. The character and approximate density of dwellings. Density may be expressed in number of dwelling units and quantitative area of each identifiable segment of the Planned Development, or by zoning designation.
  - d. The approximate location of thoroughfares, their classifications and right-of-way requirements.
  - e. Sufficient surrounding area to demonstrate the relationship of the Planned Development to adjoining uses, both existing and proposed.
  - f. An explanation of the character of the Planned Development.
  - g. The expected schedule of development.
  - h. A conceptual drainage and grading plan, including proposed arroyo treatment.
  - i. Other specified provisions of use, building placement or physical limitations.
3. **Public Hearing and District Commission Action.** The District Commission, upon notice of the filing of an application for approval of a Planned Development

Master Plan, shall set the matter for public hearing and give 15 days notice thereof by publication in a newspaper of general circulation. Where deemed necessary by the District Commission, additional notice shall be given by the posting of a sign or signs on the property. Within at least 60 days after the filing of an application, the Commission shall conduct the public hearing and shall determine whether the Planned Development:

- a. Is consistent with any prior Plan(s).
  - b. Harmonizes with the existing and expected development of surrounding areas.
  - c. Is a unified treatment of the development possibilities of the project site.
  - d. Is consistent with the stated purposes and standards of this Section. The District Commission shall approve, request modification of, or disapprove the Master Plan required under a Planned Development. Approval by the District Commission shall be the authorization for the processing of subdivision plats incorporating the provisions of the Master Plan. The District Zoning Commission shall forward its recommendation, the application, and the Master Plan to any designated planning and platting authority as a “condition of zoning approval.”
4. **Zone Map Amendment.** Upon approval, the Zoning Map shall be amended to reflect the designated Planned Development and application number. If a site development plan or subdivision plat incorporating the provisions of the Planned Development was not submitted along with the Master Plan, approval by the Commission of the subsequent development plan automatically authorizes the processing of a subdivision plat incorporating said provisions. The subdivision plat must receive review of the Commission.
5. **Planned Development Subdivision Plat.** A Planned Development subdivision plat shall be approved by the District Zoning Commission and shall be processed in accordance with the Bernalillo County Subdivision Regulations and, in addition shall include:
- a. Details as to the location of uses and street arrangement.
  - b. Provisions for the ownership and maintenance of the common open space, if any, to reasonably insure its continuity and conservation. Open space may be dedicated to a private association or to the public, provided that a dedication to the public shall not be accepted without the approval of the County Commission.
  - c. Such covenants to reasonably insure the continued compliance with the approved Master Plan. In order that the public interest may be protected, the Paradise Hills Special Zoning District may be made beneficiary of the covenants pertaining to such matters as location of uses, height of structures,

setbacks, screening, and access. Such covenants may provide that the District Commission may enforce compliance therewith.

6. **Issuance of Building Permits.** After the filing of an approved Planned Development subdivision plat, and notice thereof to the Building Inspector, no building permits shall be issued on lands with the Planned Development except in accordance with the approved plat. Any areas zoned with an S.U. permit require submission and approval of a Site Development Plan prior to building permit application. The approved Site Development Plan shall be used by the Building Inspector for conformance of the construction to the approved location, arrangement and general intent of the Site Plan.
7. **Amendments.** Minor changes in the platted Planned Development may be authorized by the District Commission upon a review of a proposed amended subdivision plat, incorporating such changes, so long as substantial compliance is maintained with the Master Plan and the purposes and standards of the Planned Development provisions hereof. Changes which would represent a significant departure from the Master Plan shall require formal abandonment and the subsequent filing of a new application for a Development.
8. **Abandonment.** Where a Planned Development application has been completed and processed, its abandonment shall require the approval of the District Zoning Commission. In the event of such abandonment, the provisions of the underlying zoning shall be administered as if no Master Plan were adopted.

## Section 15

### OFF-STREET PARKING, LOADING AND UNLOADING REGULATIONS

A. **Off-Street Parking Requirements.** In all zones there shall be provided at the time any building or structure is erected or structurally altered (to the extent hereinafter provided), off-street parking spaces in accordance with the following requirements:

1. Amusement facility (other than drive-in theater, uses with fixed seating and those listed elsewhere in this section), including swimming pool, kiddieland, amusement park, miniature golf course, golf driving range: 2 parking spaces plus 1 additional space for each 4 persons accommodated by the facility during operation at full capacity.
2. Bowling alley: 4 parking spaces for each alley.
3. Church or temple: 1 parking space for each 4 seats in the main auditorium. Each 30 inches of pew or bench shall be considered to be one seat.
4. Community center, library, museum or art gallery: 10 parking spaces plus 1 additional space for each 300 sq. ft. of floor area in excess of 2,000 sq. ft.
5. Dwelling: 1 parking space for each bathroom or fraction thereof provided in the dwelling but not less than 1 ½ spaces, as an overall average, per dwelling unit.
6. Furniture, appliance or implement store, hardware store, wholesale establishment, machinery or equipment sales and service: 2 parking spaces plus 1 additional space for each 300 sq. ft. of floor area over 1,000 sq. ft.
7. Hospital, sanitarium, or nursing home: 1 parking space for every 2 beds.
8. Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, warehouse, or similar establishment: 2 parking spaces for each 3 employees on the maximum working shift plus space to accommodate all trucks and other vehicles used in connection therewith.
9. Medical or dental office, clinic, including veterinary clinic: 5 parking spaces for each doctor.
10. Mortuary: 1 parking space for each 50 sq. ft. of floor space in the parlors or individual funeral service rooms.
11. Motel, hotel, bed & breakfast, tourist home or guest ranch: 1 parking space for each sleeping room or rental unit.
12. Parking lot: 4 or more parking spaces.

13. Printing or plumbing shop or similar service establishment: 1 parking space for each 3 persons employed therein.
14. Private club, lodge or union headquarters: 1 parking space for each 5 members.
15. Restaurant, bar, nightclub, café, dance hall, skating rink or similar recreation or amusement establishment, or an assembly or exhibition hall without fixed seats: 1 parking space for each 4 seats.
16. Retail store, office (other than medical or dental), or personal service establishment not otherwise specified herein: 1 parking space for each 200 sq. ft. of floor area.
17. Rooming or boarding house: 1 parking space for each sleeping room.
18. School: 1 parking space for each 4 seats in the main auditorium or 3 spaces for each classroom, whichever is greater.
19. Theater, auditorium, sports arena, stadium, gymnasium, and polo grounds: 1 parking space for each 4 seats or seating spaces.
20. Flea market: One (1) parking space per 200 sq. ft. of sales area plus one (1) parking space for each separately rented sales space.

**B. General Rules for Determining Parking Requirements.** In computing the number of off-street parking spaces required, the following rules shall govern:

1. Where fractional spaces result, the parking spaces required shall be construed to be the next higher whole number.
2. The parking space requirements for a use not specifically mentioned herein shall be the same as that required for a use of similar nature as determined by the District Zoning Commission.
3. Whenever a building or use constructed or established after the effective date of this ordinance is changed or enlarged in floor area, number of employees, seating capacity or otherwise to create a need for an increase of 10% or more in the number of existing parking spaces, such space shall be provided on the basis of the enlargement or change. Whenever a building or use existing prior to the effective date of this ordinance is enlarged to the extent of 50% or more in floor area used, said building or use shall then and thereafter comply with the parking requirements set forth herein.
4. In the case of mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.
5. No vehicle in excess of 2-1/2 ton capacity shall remain parked overnight on a residential street.

6. Off-street parking areas designed for 10 or more vehicles may include up to 25 per cent of the required area for smaller vehicles (8' x 16' stall) or, if unspecified, may use 325 square feet per vehicle, as an average, including driving lanes within the parking area.
7. All open parking areas in C-1 and M-1 zones provided in compliance with this ordinance shall be surfaced with a durable surface consisting of concrete or bituminous material.

C. **Off-Street Loading and Unloading Spaces.** Off-street loading and unloading spaces shall be required as determined by the District Zoning Commission, and shall be so located that loading and unloading activity will not block or restrict a public way.

## Section 16

### SUPPLEMENTARY HEIGHT AND AREA REGULATIONS

A. The regulations set forth in this section qualify or supplement the zone regulations appearing elsewhere in this ordinance.

**B. Modification of Height Regulations.**

1. The height regulations as prescribed in this ordinance shall not apply to:

- a. Belfries.
- b. Church spires.
- c. Cooling towers.
- d. Elevator bulkheads.
- e. Fire towers.
- f. Flagpoles.
- g. Water tank.

**C. Modification of Area Regulations.**

**1. Yards, General:**

- a. Whenever a lot abuts a public alley, one-half of the alley width may be considered as a portion of the required rear yard.
- b. In the event that a lot is to be occupied by a group of two or more related buildings to be used for residential, institutional, hotel, or motel purposes, there may be more than one main building on the lot when such buildings are arranged around a courtyard provided, however, that said courtyard between buildings that are parallel or within 45 degrees of being parallel shall have a minimum width of 15ft. For 1-story buildings, and 20 ft. for 2-story buildings.
- c. Where a lot is used for commercial or industrial purposes, more than one main building may be located on the lot, but only when such buildings conform to all open space requirements around the lot for the zone in which the lot is located.
- d. Where a lot has an area equivalent to two or more times that required by this ordinance, but is without sufficient width for two or more lots, more than one dwelling shall be permitted provided the following requirements are met:

- (1) All height, area, and yard requirements, except lot width, shall be complied with.
- (2) The minimum distance between buildings shall be 50 ft.
- (3) A strip of land at least 15 ft. wide, measured at right angles to either side lot line and extending from the street line to the rear portion of the lot, shall be reserved as a means of access.
- (4) Said lot shall be subdivided in accordance with the requirements of the zone.

**2. Accessory Building and Structure.**

- a. Except as herein provided, no accessory building shall project beyond a required yard line along any street.
- b. Service station pumps and pump islands may occupy the required yards provided, however, that they are not less than 12 ft. from street lines.
- c. Accessory, open and uncovered swimming pools may occupy a required rear yard provided they are not located closer than 6 ft. to the rear or side lot line, provided the rear yard is enclosed by a fence or wall of not less than 6 ft. in height with a locked gate to secure the area.
- d. Accessory buildings which are not a part of the main building although connected by an open breezeway may be constructed in a rear yard provided such accessory building does not occupy more than 30% of the area of the required rear yard and provided it is not located closer than 10 ft. to the rear or the side lot line.
- e. Any accessory building shall be at least 10 ft. from any dwelling or accessory living quarters except that any accessory building which does not contain living quarters may be closer than 10 ft. to another accessory building which does not contain living quarters, provided, however, that if there is no common wall between such accessory buildings. No accessory building may extend across the width of the yard; such building shall conform to the side yard setbacks in the site on which it is situated. To accommodate unusual requirements, variances may be granted by the District Zoning Commission, but in no case shall the separation between buildings be less than four (4) feet.

**3. Front Yards.**

- a. Where an official line has been established for the future widening or opening of a street which a lot abuts, then the depth of a front or side yard shall be measured from such official line to the nearest line of the building.

- b. Garages detached or attached to the main building and entering on the side street of a corner lot shall maintain a setback of 20 ft. in front of the garage.
- c. The front yards heretofore established shall be adjusted in the following cases:
  - (1) Where 40% or more of the frontage on one side of a street between two intersecting streets is developed with two or more buildings that have (with a variation of 5 ft. or less) a front yard greater in depth than herein required, new buildings shall be so established by the existing building nearest the street line.
  - (2) Where 40% or more of the frontage on one side of a street between two intersecting streets is developed with two or more buildings that have a front yard or less depth than herein required. Then:
  - (3) Where a building is to be erected on a parcel of land that is within 100 ft. of existing buildings on both sides, the minimum front yard shall be a line drawn between the two closest front corners of the adjacent building on each side, or,
  - (4) Where a building is to be erected on a parcel of land that is within 100 ft. of an existing building on one side only, such building may be erected as close to the street as the existing adjacent building.

3. **Wall or Fence**

A wall or fence may be built within the required setbacks provided it does not exceed eight (8) feet in height and does not, in the opinion of the Zoning Board of Commissioners, create a traffic hazard at intersections of streets and driveways.

## Section 17

### LANDSCAPING AND LANDSCAPING BUFFER REGULATIONS

- A. **Basic Requirement.** Landscaping is required for all R-2, C-N, C-1 and M-1 zones.
- B. **Intent.** The intent of the regulations in this section is to provide visually attractive landscape buffers around the perimeter of developments, provide a visually attractive streetscape, intersperse trees throughout off-street parking areas to provide shade and reduce large expanses of pavement and parked cars, provide landscaped areas around apartments, and reduce impacts of nonresidential uses on residences.
- C. **Landscape Plan.**
1. All applicants for building permits for construction of a new building or building addition over 200 square feet shall submit and have approved a landscaping plan prior to issuance of a building permit.
  2. Underground utility lines to be checked prior to design are as follows: water and sewer, traffic signal, fire alarm, gas, telephone electric, and cable television.
  3. The landscaping plan shall show the type of watering system.
- D. **Installation and Maintenance.**
1. Landscaping shall be installed according to the approved plan; installation shall be completed within 60 days of the related building's occupancy.
  2. Any damage to utility lines resulting from the negligence of the abutting landowner, his agents, or employees in the installation and maintenance of the landscaped area in the public right-of-way shall be the responsibility of such landowner.
  3. Landscaping shall have adequate maintenance.
- E. **Landscaping Requirements.**
1. Where a nonresidential zone is developed for a nonresidential purpose and the site abuts a residential zone, special buffer landscaping is required to minimize noise and sight impact of the nonresidential activities in the residential area.
  2. The standard buffer landscaping shall be a landscaping strip at least ten feet wide where located along the residential/nonresidential boundary.
- F. **Plant Sizes.** Unless otherwise specified, the minimum acceptable sizes of plants are as follows:
1. Tree: Two inches in caliper measured six inches above grade per 10-12 feet in height.
  2. Shrubs and low-growing evergreens: One gallon.
  3. Ground cover and turf: Adequate to provide general ground coverage within one growing season after planting.

G. **Special Landscaping Standards.**

1. **Off-street parking area landscaping.** Trees are required in and around off-street parking areas to provide shade and relieve the adverse visual impact of large expanses of pavement and parked cars. Quantity and distribution of trees shall be as follows:
  - a. One tree is required per ten parking spaces.
  - b. The minimum size of tree planters within off-street parking areas shall be 36 square feet per tree.
  - c. At least 75% of the required parking area trees shall be deciduous canopy-type shade trees, capable of achieving a mature canopy diameter of at least 25 feet.
  - d. Any non-living ground cover areas not intended as mulch around spreading plants must be clearly delineated on the landscaping plan.

H. In addition to the above requirements, multi-family residential sites must provide trees in areas around residential structures as follows:

1. Trees shall be provided at not less than the rate of one tree per ground floor dwelling unit and one tree per two second-story dwelling units. No additional trees are required for units above the second story.
2. At least 50% of the required trees shall be deciduous canopy-type shade trees or coniferous trees capable of attaining a mature canopy diameter of at least 25 feet.

I. The property owner and/or tenant of the property will maintain general orderliness and cleanliness so as not to offend the reasonable person.

## Section 18

### RESTRICTIONS ON OUTDOOR LIGHT FIXTURES

A. **Intent and Purpose.** The intent is to regulate the use of outdoor light fixtures in Paradise Hills. This Section is intended to create standards for outdoor lighting so that its use does not unreasonably interfere with the enjoyment of adjacent property owners, and to promote energy conservation without jeopardizing safety, utility, security, and productivity. The purpose of this Section is to minimize light pollution, and unnecessary illumination of adjacent properties.

B. **Conformance with Applicable Codes.** All outdoor electrically powered illuminating devices within the area controlled by this Section, including outdoor light fixtures on facilities or lands owned, operated, controlled or protected by the State of New Mexico, County of Bernalillo, City of Albuquerque or other public entity or public agencies must comply with the requirements of this Section. Federally funded and State funded roadway construction projects are exempted from the requirements of this Section only to the extent it is necessary to comply with Federal and State requirements.

C. **Definitions.** In the case where a definition of a term of this Section is found to be in conflict with a definition of a term of any other ordinance, "IES" handbook or regulations, the more restrictive definition will apply.

**Automatic Timing Device.** A device that automatically controls the operation of a light fixture or fixtures, circuit or circuits. Photocells, and light and/or motion sensors shall be considered automatic-timing devices.

**Cutoff.** A light fixture designed, installed, and operated so that the light distribution meets the following criteria: The candlepower per 1000 lamp lumens does not numerically exceed 25 (2-1/2%) at an angle of 90 degrees above nadir and 100 (10%) at an angle of 80 degrees above nadir. This applies to any lateral angle around the light fixture.

**Filtration.** Outdoor light fixtures which have glass, acrylic or translucent enclosures.

**Installed.** The attachment or assembly fixed in place whether or not connected to a power source.

**Light Pollution.** Artificial light which causes a detrimental affect on adjoining properties.

**Outdoor Light Fixtures.** Outdoor electrically powered illuminating devices, outdoor lighting, internally illuminated or reflective surfaces, bare lamps, and similar devices, permanently installed or portable. Such devices may be used for, but are not limited to:

1. Outdoor lighting of building and structures, including building overhangs and canopies;
2. Outdoor lighting of recreational areas or parking lots;
3. Security lighting;
4. On-premises signs;
5. Street lighting;
6. Landscape lighting;
7. Building mounted area lighting; and
8. Building façade lighting.

**Person.** Any individual, firm, co-partnership, joint venture, association, social club, fraternal

organization, corporation, estate, trust, business trust, receiver, syndicate, political subdivision, or other group or combination, acting as a unit.

**Premises.** A tract, lot or parcel of land together with all buildings and structures thereon.

**Private Area Light.** A light installed by a public utility company under a public utility company's rate schedule for private use and owned by the public utility company.

**Semi-Cutoff.** A light fixture designed, installed, and operated so that the light distribution meets the following criteria: The candlepower per 1000 lamp lumens does not numerically exceed 50 (5%) at an angle of 90 degrees above nadir and 200 (20%) at a vertical angle of 80 degrees above nadir. This applies to any lateral angle around the light fixture.

**Shielded.** A technique or method of construction which causes all the light emitted from an outdoor light fixture to be projected below a horizontal plane passing through the fixture.

**Shielded Aimable.** A technique or method of construction which causes all of the light emitted to be directed to the surface or area to be illuminated, so that the emanating source of light is not visible from any angle except those angles that exist between the fixture and the target to be illuminated. The emanating source shall not be visible from any adjacent properties or roadways to minimize light pollution.

D. **General Requirements.** Searchlights, spotlights, floodlights or lighting fixtures used to illuminate off-premises signs are hereby prohibited. Any other outdoor light fixtures or illuminated on-premises signs installed after the effective date of this Section shall comply with the following:

1. All outdoor light fixtures and illuminated on-premises signs shall:
  - a. be designed and operated as cutoff or shielded aimable fixtures;
  - b. be equipped with and controlled by light and motion sensors or automatic timing devices; and
  - c. remain off between 11:00 P.M. and sunrise except for illuminating walkways or driveways.
2. Outdoor light poles and standards shall not exceed 16 feet in height above existing grade. Public streetlight poles and standards are exempt from this height requirement.
3. All outdoor lighting fixtures mounted on buildings or structures shall be mounted at a height no more than 16 feet above finished grade.
4. All outdoor lighting systems shall be designed, or redesigned, and operated so that the area 10 feet beyond the property line of the premises receives no more than 0.25 (one-quarter) of a foot candle of light from the premises lighting system.

E. **Approved Materials and Methods of Installation.** The provisions of this Section are not intended to prevent the use of any design, material or method of installation or operation, provided such alternative design, material or method conforms with the intent of this Section of the Zoning Ordinance.

F. **Non-Conforming Outdoor Fixtures.** All non-conforming outdoor fixtures installed prior to and operable on the effective date of this Section shall be removed or converted to a conforming use within three (3) years for nonresidential use and five (5) years for residential use.

G. **Exemptions.** Existing public streetlights installed before the effective date of this Section are exempt from the requirements of this Section; however, when they become unrepairable, their replacements are subject to all provisions of this Section.

H. **Penalty.** Any owner, tenant, agent, or person in charge of any premises or any other person who violates any of the provisions of this Section, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding \$300.00.

I. The provisions of this Section are severable, and if any provision, sentence, clause, section, or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, the illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Section or their application to the persons or circumstances.

## Section 19

### NON-CONFORMING USES

#### A. Non-Conforming Building or Structure.

1. Any building or structure non-conforming as to use shall be removed or converted to a conforming building or structure within 60 years after the effective date of this ordinance except:
  - a. All signs which do not conform with the provisions of this ordinance shall be made to conform or shall be removed within 1 year after the adoption of this ordinance or 1 year after the sign becomes non-conforming, whichever comes later.
  - b. During the 5-year period, the owner or operator of any non-conforming sign shall have the right to repair or remodel, illuminate said sign, provided that such changes shall not enlarge the overall square foot area of the sign and shall in no wise be deemed to affect the 5-year amortization period set out herein. The same amortization period is provided for signs which become non-conforming as a result of a zone change.
2. Any non-conforming building or structure may be maintained, repaired, or altered, provided that any building or structure non-conforming as to use shall not be structurally altered except as required by law.
3. Any building or structure non-conforming as to use shall not be added to or enlarged unless such building or structure afterwards is converted to a conforming use, provided however, that a maximum expansion of 25% of its floor area may be permitted by the District Zoning Commission if said enlargement is made within 10 years after the effective day of this Ordinance, and that expansion of more than 25% may be permitted by the District Zoning Commission where a building or structure is used residentially, located in a zone which permits residential uses, and does not increase the number of dwelling units on the lot or in the structure. If a lot is occupied by both a conforming and a non-conforming structure, detached accessory buildings may be built provided they are clearly incidental to the conforming use and do not exceed 25% of the floor area of the conforming use.
4. Any building or structure non-conforming only as to height regulations shall not be added to or enlarged unless such addition or enlargement conforms to all of the regulations of the zone in which it is located.
5. Any building or structure non-conforming only as to yard requirements shall not be added to or enlarged except in compliance with the following requirements:
  - a. Any such addition or enlargement shall conform to all the regulations of the zone in which the building or structure is located.

- b. The total aggregate floor area included within all such separate additions or enlargements shall not exceed 50% of the floor area of the original non-conforming building or structure.
6. Any non-conforming building or structure may be moved in whole or in part to another location on the lot, provided that every portion of such building or structure which is moved is made to conform to all of the regulations of the zone in which it is located.
7. Any non-conforming building or structure which is damaged by fire, flood, wind, earthquake, or other calamity or act of God or public enemy may be restored or replaced by a conforming building when possible, but not to an extent greater than the original floor area which existed at the time of the damage, provided such restoration shall be started within 6 months of the damage and shall be prosecuted diligently to completion.

**B. Non-Conforming Use of Building or Structure.**

1. Any building or structure non-conforming as to use regulations which hereafter becomes vacant and remains unoccupied or is not used for a continuous period of 1 year or more shall not thereafter be occupied except by a conforming use.
2. The use of any non-conforming building or structure may be changed to another use permitted in the same or more restrictive zone.

**C. Non-Conforming Use of Land.** Where a parcel of land is non-conforming as to use, such use shall be discontinued within 1 year after the effective date of this ordinance. During the 1 year period, such non-conforming use shall not be extended or enlarged either on the same or adjoining property. Any building incident and subordinate to such use of land, such as a shed, toolhouse, storage building, office or trailer house, shall be removed at the end of the 1 year period, or if such building is so constructed as to permit issuance for a permit for a use not excluded from the zone, such building may remain as to conforming use; and thereafter, both land and building shall conform as to use.

**D. Non-Conforming Due to Amendment.** The foregoing provisions of this subsection also apply to any building, structure, or use which becomes non-conforming due to any amendment of the text of this ordinance or the zone map, excluding Special Use Permits, provided, however, that where a period of years is specified in this subsection for the removal of non-conforming buildings, structures, or uses, said period shall be computed from the date such amendment became effective.

**Section 20**

**ADMINISTRATION**

**A. Zoning Administration.**

1. **Powers and Duties.** The District Zoning Commission shall administer this ordinance, and in addition thereto and in furtherance of said authority, shall:
  - a. Issue all zoning certificates as required, and make and maintain records thereof.
  - b. Issue all certificates of occupancy as required, and make and maintain records thereof.
  - c. Conduct inspection of buildings, structures, and the use of land to determine compliance with these regulations. This provision does not grant right of entry without due process if necessary.
  - d. Maintain permanent and correct records of this ordinance, including but not limited to all maps, amendments, and conditional use permits, variances, and appeals.
  - e. Provide public information availability relative to all matters arising out of this ordinance.
  - f. Issue certificates of occupancy for non-conforming uses existing at the effective date of this ordinance.
  - g. In the event any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this ordinance, in addition to other remedies, may initiate any appropriate action or proceeding to present such unlawful action, correct or abate such violation, to prevent the occupation of such building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises.
  - h. Investigate all applications for variances from the height, area, parking or density regulations of this ordinance, and to grant such applications:
    - (1) To the extent necessary to permit the owner reasonable use of his land in those specified instances where there are peculiar, exceptional and unusual circumstances in connection with a specific parcel of land, which circumstances are not generally found within the locality or neighborhood concerned.
    - (2) Investigate all applications for variances from the non-conforming use provisions of this ordinance where the application is for an

expansion in excess of the amount otherwise authorized, and to grant such applications if the site for the proposed expansion is adequate in size and shape to accommodate such expansion and if the proposed expansion will have no adverse effect on the neighborhood or seriously conflict with the character of the area.

i. Investigate all applications for conditional use permits, authorized in this ordinance, and grant such applications if:

(1) The site for the proposed use is adequate in size and shape to accommodate such use and all yards, open spaces, walls and fences, parking, loading, landscaping, and other features required by this ordinance to adjust such use to the land use pattern in the neighborhood.

(2) The site for the proposed use can be developed in such manner that undue traffic congestion or hazards will not be created.

(3) The proposed use will have no adverse effect on the neighborhood or seriously conflict with the character of the area.

(4) Any conditions are deemed necessary to protect the public health, safety, and general welfare. Such conditions may include requirements relative to:

Open space and buffers.

Walls, fence and signs.

Surfacing of parking areas.

Location of points of vehicular egress and ingress.

Landscaping and maintenance thereof.

Noise, vibration, odor, lighting, and health hazards.

Such other conditions as will make possible the development of the district in an orderly, efficient manner, and in conformity with the intended purpose of this ordinance.

j. Authorize amendments to approved special use development plans provided:

(1) That any such amendment shall result in an equal or less intense use of land than that first approved by the District Zoning Commission, except as may be otherwise provided for by Planned Development approvals.

- (2) That no minimum requirement or additional requirement imposed on any development plan by the District Zoning Commission would be modified.
- k. Review and approve, approve with modifications or stipulations or deny application for Planned Development overlays; including attendant Master Plans, zoning or rezoning petitions, designations of transportation, drainage, intensity of development and other elements.
  - (1) Said overlays, Planned Development designations, Master Plans and related documentation shall be reflected on all official zone maps, together with dates of effect; and,
  - (2) Such records shall be maintained in the same manner as provided for within this Section; and,
  - (3) Subsequent applications for permits, subdivisions, revisions and determinations shall be reviewed for either:
    - a) Conformance with said Master Plan; or,
    - b) Conformance with the underlying zoning restrictions and allowances in the same fashion as if no prior plan existed.

2. **Application Procedures and Filing Fees.**

- a. **Applications.** An application for a variance or conditional use permit shall be filed with the Zoning Commission on a form and accompanied by such data and information as it may prescribe.
- b. **Procedures.** Wrong or incomplete information may cause a delay in the hearing process. It is suggested that the applicant have an informal consultation with the Zoning Commission before filing an application in order to be informed of any requirements or policies relevant to the request. An application shall include the following information:

- (1) The name, address, and telephone number of the applicant and/or agent.
- (2) The legal description and uniform property code number of the property.
- (3) A plot plan delineating the boundaries of the property and all existing and proposed improvements.
- (4) A written statement which justifies the request.
- (5) Any additional information deemed necessary by the Zoning Commission for reviewing the request.
- (6) Certification from the Bernalillo County Environmental Health Department, Public Works Department, Floodplain Administrator,

Albuquerque Metropolitan Arroyo Flood Control Authority, relative to their respective ordinances.

- c. **Filing Fees.** A fee of \$75.00 shall be paid at the time of an application for a variance or a conditional use permit is filed except for applications for conditional use involving more than one dwelling unit per lot.
3. **Hearing Date and Notice.** Upon the filing of an application for a zone change, variance, special use or conditional use permit, the District Zoning Commission shall set a time for holding a public hearing thereon, and shall require the applicant to give notice of such hearing by at least one publication in a daily newspaper of general circulation in Bernalillo County at least 15 days prior to the hearing. Written notice shall be given by certified, return receipt requested mail to the owners of all property within 200 feet of the exterior boundaries, excluding public rights-of-way, of the property which is the subject of the application, using for this purpose the last known name and address of such owners shown in the records of the Bernalillo County Assessor. If the applicant defaults or requests deferment of the hearing for more than 60 days past advertising and written notice to property owners, then reapplication, advertising, and notice to property owners shall be made.
  - a. The above described notification radius shall be increased to 300 ft. for application for Conditional Use that could result in more than one dwelling unit.
  - b. When any of the property immediately beyond the radius described herein is under the same ownership as the property that is the subject of the application, the owner of the property next adjacent, disregarding public ways, also shall be notified.
4. **District Zoning Commission.** Upon making a ruling or determination relative to an application for a variance, special use or conditional use permit or any other matter under their jurisdiction, the District Zoning Commission shall forthwith furnish a copy of the approved meeting minutes upon request of the applicant. Such determination shall be final except that an appeal may be taken as provided in the next subsection.
5. **Appeals.** An appeal of a determination of the District Zoning Commission shall be made in writing and shall be filed in duplicate with the District Zoning Commission on forms provided by the Commission. Such appeal must set forth specifically wherein it is claimed there was an error or an abuse of discretion by this action, or where the decision is not supported by evidence in the matter. A filing fee of \$75.00 shall accompany each appeal. When an appeal is withdrawn, the filing fee shall not be refunded. Any appeal not filed within 15 days of the date of the approved meeting minutes shall be dismissed.

**B. Application for Zone Change or Zone Adjustment.**

1. All applicants will present plans pertinent to the zoning matter in at least three copies.
2. A cover letter for each set of plans, stating intentions and desires of the applicant for the use of the land, building, facility, or structure, shall be attached to the plans submitted.
3. Arrange a meeting with the Paradise Hills Architectural and Covenants Committee for review and environmental sanction prior to submitting application(s) to the District Zoning Commission.
4. If appropriate, review the plans with the Albuquerque Metropolitan Arroyo Flood Control Authority (AMAFCA). (See Section 3, Paragraph G.)
5. Provide the Chairman, Paradise Hills Special Zoning Commission, with the complete file and allow a reasonable time for scheduling of public hearing. Allow sufficient time for study, investigation, and hearings before scheduling the start of construction.
6. Appear in person, or by representation, before the Special Zoning Commission when plans are scheduled for public hearing.
7. Following the hearing and payment of the appropriate fee as provided for in the Paradise Hills Special Zoning District Comprehensive Ordinance, the plans will be stamped with necessary approvals for later submission to Bernalillo County officials.

**C. Zoning Certificates.**

1. After the District Zoning Commission has determined that the proposed building, structure or land use complies with all the regulations of this ordinance, a certificate will be issued. Where no other permit is required for the use of land, this zoning certificate shall be construed as the permit to so use the land. Any permit or certificate of occupancy issued in conflict with the provisions of this ordinance shall be null and void.
2. **Plot Plans.** All applications for zoning certificates shall be accompanied by a plot plan in triplicate showing with dimensions the lot lines, building or buildings, location of buildings on the lot, and such other information as may be necessary to provide for the enforcement of this ordinance including, if necessary, a boundary survey and the staking of the lot by a competent surveyor or engineer. The plot plans shall contain suitable notations indicating the proposed use of all land and buildings. A record of the original copy of such applications and plot plans shall be kept in the office of the District Zoning Commission, and a duplicate copy shall be kept at the building at all times during construction.

3. **Building or Use Permit.** Certificates of Occupancy and Building Permits are issued by Bernalillo County.

4. **Fees.** Fees for Zoning Certificates. For each permit to erect, construct, reconstruct, alter or change the use of any building, structure or land within any portion of the unincorporated area of Paradise Hills for which a permit is not required by the Bernalillo County Uniform Building Code, a fee shall be charged according to the following schedule:

a. Buildings.

- (1) Residential: \$40.00 for structures of less than 2,000 sq. ft., for structures of more than 2,000 sq. ft., an additional \$.02 per sq. ft.
- (2) Accessory building or addition: with gross floor area of 500 sq. ft. or less, \$5.00; with gross floor area of more than 500 but less than 1,500 sq. ft., \$15.00; for each sq. ft. in excess of 1,500, \$.10 per sq. ft.
- (3) No fees shall be charged for alterations, remodeling or reconstruction so long as the exterior walls are not altered. If the exterior walls are altered, then the fee schedule for paragraph 4.a.(2) of this Section shall apply.

b. Uses. The fee for a new home occupation or a change of non-residential use of buildings or land, shall be \$10.00.

c. Structures other than buildings:

- (1) Signs from:

	<u>Fee</u>
1 to 39 sq. ft.	45.00
Over 39 to 59 sq. ft.	50.00
Over 59 to 79 sq. ft.	55.00
Over 79 to 99 sq. ft.	65.00
Over 99 to 119 sq. ft.	75.00
Over 119 to 139 sq. ft.	80.00
Over 139 to 159 sq. ft.	90.00
Over 159 sq. ft.	100.00

Except that no fee will be charged if an existing sign is remodeled or repainted without an increase in its size.
- (2) Walls: The fee for construction of a wall or fence shall be \$10.00 or \$0.10 a linear foot whichever is greater but in no instance shall it exceed \$25.00.
- (3) For in-ground swimming pools and commercial construction, the fee shall be \$10.00 for structures costing more than \$400 but less than \$1,000 including labor costs. For pools and commercial construction

costing more than \$1,000, the fee shall be increased by \$3.00 for each \$1,000 or fraction thereof in excess of \$1,000.

- d. Variances, Special Use Permits and Conditional Use Permits: The fee shall be \$75.00.
- e. Appeals: The fee shall be \$75.00.

## Section 21

### AMENDMENTS

A. The District Zoning Commission may, from time to time, amend, supplement, or change by ordinance the boundaries of the zones or the regulations herein established. Any proposed amendment, supplement, or change shall be advertised as required.

B. Any application made to the District Zoning Commission for amendment of the text of this ordinance or the zone map shall be in writing on forms prescribed by the District Zoning Commission. A filing fee of \$200.00 shall accompany a request for a change to the text of the Zoning ordinance. Each application for a zone map change shall be accompanied by an accurate plot plan, site plan, building development plan, sketch, program of development, or other related material and information as required by the District Zoning Commission or by this ordinance. Submission of inaccurate material or information with an application shall be grounds for denial. Approval of any application shall not be construed as approval of a building permit. After an applicant's petition for rezoning is advertised for public hearing by the District Zoning Commission, another petition for a change affecting the same property shall not be filed within a period of 12 months from the date of the advertisement. An applicant fee for a zone map change shall be charged as follows:

1. Less than 1 acre: \$125.00.
2. 1 acre but less than 5 acres: \$200.00 for the first acre plus \$25.00 for each additional acre or portion thereof.
3. 5 acres but less than 20 acres: \$300.00 for the first 5 acres plus \$15.00 for each additional acre or portion thereof.
4. 20 acres but less than 60 acres: \$875.00 for the first 20 acres plus \$10.00 for each additional acre.
5. 60 acres or more: \$975.00 for the first 60 acres plus \$5.00 for each additional acre.
6. Planned Development: Application for Master Plan approval, concurrent with zone map change, total application fee: \$250.00, plus application fee for zone map changes for those portions changed (combined acreage of changes).

When an application is withdrawn after scheduling and advertising for public hearing by the District Zoning Commission, the filing fee shall not be refunded to the applicant.

C. **Notification.** Public notice of the hearing at which the application is to be considered must be given by at least one publication in a daily newspaper of general circulation in Bernalillo County at least 15 days before the date of the hearing and, in the event of application for a change to the Zone Map for an area of one block or less, also by mailing written notice by certified mail, return receipt requested, not less than 15 days before the date of the hearing, to the owners of all property

within the area proposed to be changed and to all owners of property within 200 ft. of the exterior boundaries, excluding public rights of way, of the area proposed to be changed, using for these purposes the last known name and address of the owners shown in the records of the Bernalillo County Assessor.

When any of the property immediately beyond the radius described herein is under the same ownership as the property that is the subject of the application, the owner of the property next adjacent, disregarding public ways, also shall be notified. If the action permits more than one building in the block, property owners within 300 ft. shall also be notified by certified return receipt mail.

D. **Procedure.** The District Zoning Commission shall make its decision on each application. The District Zoning Commission shall fix a regular time and place for regular meetings. Special public hearings may be held at other than the established regular time or place provided public notice of the meetings is given at least 24 hours in advance. The District Zoning Commission shall keep minutes of its proceedings, including a record of the vote of each member on each question, and the minutes shall be public record.

Valid and complete Applications for a change to the Zone Map shall be deemed approved if not scheduled on the agenda of the Commission for any consecutive 3 month period.

E. **Appeals.** Appeal of any denial of an application by the District Zoning Commission shall be submitted in writing to the District Zoning Commission with 15 days after the date of the approved meeting minutes, if a written protest is signed by the owners of 20% or more of either the area of the lots and lands included in such proposed change or of those immediately adjacent within 200 ft. of the area proposed for change, disregarding public ways. Such change to the Zone Map shall require approval of the Majority of the members of the District Zoning Commission.

1. Written notice of appeal shall be filed with the District Zoning Commission. A filing fee of \$75.00 shall accompany the notice of appeal.
2. Public notice of any appeal shall be given by legal advertisement in the manner prescribed for a change to the text of this ordinance. Written notice of any appeal, together with notice of hearing date, shall be sent to the applicant, a representative of the opponents, if any, and the appellant (if other than the applicant).

## Section 22

### ENFORCEMENT AND PENALTIES

#### A. **Enforcement:**

1. The District Zoning Commission is the enforcement organization and has the authority and duty to enforce this ordinance.
  - a. An application for a permit, license, or certificate pertaining to the use of land or building shall be approved by the District Zoning Commission or designee. A permit, license, or certificate issued in conflict with the provisions of this ordinance is void.
  - b. Whenever necessary to make an inspection to enforce any of the provisions of this ordinance, the District Zoning Commission or designee may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the District Zoning Commission or designee by this ordinance; provided that if such building or premises be occupied, he shall first present proper identification and demand entry; and if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If entry is refused the District Zoning Commission or designee shall proceed to obtain a search warrant by filing a complaint made before the Metropolitan Court or District Court upon oath or affirmation. The complaint shall: (1) set forth the particular building, premises, or portion thereof sought to be inspected, (2) state that the owner or occupant of the building, premises, or portion thereof, has refused entry, (3) state that inspection of the building, premises, or portion thereof is necessary to determine whether it complies with the requirements of this ordinance, (4) set forth the particular provisions of this ordinance sought to be enforced, (5) set forth any other reason necessitating the inspection, including knowledge of belief that a particular condition exists in the building, premises, or portion thereof which constitutes a violation of this ordinance, (6) state that the District Zoning Commission or designee is authorized to make the inspection. No owner or occupant or any other person having charge, care, or control of any building or premises shall fail or neglect, after proper demand is made as herein provided, to promptly permit entry therein by the District Zoning Commission or designee for the purpose of inspection and examination pursuant to this ordinance.
  - c. In the event a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or a building, structure, or land is issued in violation of this ordinance, the District Zoning Commission or designee, in addition to other remedies, may institute an appropriate action or proceeding to prevent the unlawful action, to restrain, correct, or abate the violation; to prevent the occupation of the building, structure, or land; or to prevent an illegal act, conduct, business, or use in or about the premises.

- d. This ordinance shall not be construed to hold the District Zoning Commission or its authorized representatives responsible for any damage to persons or property by reason of the inspection or re-inspection authorized herein or failure to inspect or re-inspect or by reason of issuing a building permit as herein provided.
- e. No structure shall be constructed, erected, placed or maintained, and no land use commenced or continued within the jurisdiction of the District Zoning Commission except as specifically, or by necessary implication, authorized by this Ordinance. Special or conditional uses are allowed only on permit granted by the District Zoning Commission upon finding that the specified conditions exist. Where a lot is devoted to a permitted principal use, customary accessory uses and structures are authorized except as prohibited specifically or by necessary implication.

2. Process for Issuing a Citation and Enforcement

- a. Write Letter of Complaint to owner of the home requesting appearance at any one of our next meetings (chairman will list all meeting dates within the next 30 days). Specifies section of Ordinance and possible fine not exceeding \$300 for non-compliance.
- b. Owner doesn't show or does not comply. Send Citation with the following: Basis for the Ordinance's jurisdiction (Special Zoning District Act [3-21-15 to 3-21-26 NMSA 1978]. Section of Ordinance not in compliance (copy from Ordinance) and where one can purchase an Ordinance (Chairman). Send certified mail.
- c. If owner does not show or comply, send certified mail (again) to resident and/or owner of property notifying of non-compliance with letter of complaint and Notice of Appeal ruling (300\$ fine for continued non-compliance). Furthermore, give notice that the enforcement of the fine and non-compliance shall now be forwarded to the County District Attorney and Bernalillo County Sheriff as per the act.

**B. Penalties.** Any person who shall knowingly violate any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding \$300.00 or imprisonment in the County Jail for a period not exceeding 90 days, or both fine and imprisonment. Any violation continued for a period of 15 days after conviction shall be prosecuted and treated as a separate offense.

- 1. Process for Appeal: The first appeal for this infraction and fine of \$300 is to this commission within 30-days. This shall include an appearance before the Commission and may include at the offender's option a written statement to be presented prior to

the appearance before the Commission to the Chairman defining the position taken to comply with set dates for compliance and inspection.

2. At appeal (second scheduled) hearing, offender shall show compliance and/or inspection by one of the Commission's Commissioners to completely avoid fine not exceeding \$300 and enforcement. If the inspection does not show compliance, then resident may show dates for compliance and/or scheduled inspection by respective Commissioner. Commission shall vote as to whether these dates are acceptable for compliance or not. Commission shall not reduce fine and enforcement unless compliance is accomplished within 45 days of the appeal (second scheduled) hearing date.
3. If fine is paid in full at appeal hearing, the resident shall have 45 days to come into compliance without further enforcement procedures coming into play. If resident does not comply within these 45 days, then a new citation and fine are issued and the process begins anew. If the resident fully complies with the 45 days then the Commission may remit fines paid in full at the Commission's sole discretion.

This ordinance was last amended the 22nd day of June 2009.

PARADISE HILLS SPECIAL DISTRICT ZONING COMMISSION