TOWN OF EDGEWOOD

ZONING ORDINANCE 2014-02

Adopted August 6, 2014

Amended February 4, 2015

SECTION 1. TITLE 3
SECTION 2. PURPOSE 3
SECTION 3. APPLICABILITY 3
SECTION 4. DEFINITIONS 3
SECTION 5. REVIEW AND DECISION-MAKING BODIES 10
SECTION 6. REVIEW AND APPROVAL PROCEDURES 12
SECTION 7. GENERAL PROVISIONS 13
SECTION 8. DEVELOPMENT REVIEW 14
SECTION 9. ZONE DISTRICT BOUNDARIES 15
SECTION 10. TOE-AP AIRPORT SAFETY OVERLAY ZONE 16
SECTION 11. AG AGRICULTURAL ZONE 17
SECTION 12. R-1 CONVENTIONAL 1-ACRE RESIDENTIAL ZONE 19
SECTION 13. R-2 CONVENTIONAL 2-ACRE RESIDENTIAL ZONE 20
SECTION 14. R-3 RESIDENTIAL/INSTITUTIONAL ZONE 21
SECTION 15. R-4 (MANUFACTURED HOME) RESIDENTIAL ZONE 22
SECTION 16. R-5-RESIDENTIAL MIXED USE ZONE 23
SECTION 17. R-E RESIDENTIAL ESTATE ZONE 24
SECTION 18. R-R RURAL RESIDENTIAL ZONE 24
SECTION 19. R-S RESIDENTIAL AND SERVICES ZONE 26
SECTION 20. M U MIXED-USE ZONE 27
SECTION 21. C-1 COMMERCIAL ZONE 28
SECTION 22. C-2 COMMERCIAL BUSINESS ZONE 29
SECTION 23. IP-INDUSTRIAL PLAN ZONE 31
SECTION 24. MP-MASTER PLAN ZONE 32
SECTION 25. SU-SPECIAL USE 36
SECTION 26. PERFORMANCE BASED SETBACKS 39
SECTION 27. WELL HEADPROTECTION ZONE 39
SECTION 28. FLOOD PROTECTION OVERLAY ZONE 42
SECTION 29. OFF STREET PARKING 43
SECTION 30. OUTDOOR LIGHTING 44
SECTION 31. SUPPLEMENTARY USE REGULATIONS 45
SECTION 32. PERFORMANCES STANDARDS IN ALL DISTRICTS 47
SECTION 33. NONCONFORMANCE 49
SECTION 34. CONDITIONAL USE PERMIT WIND ENERGY CONVERSION SYSTEMS (WECS) 50
SECTION 35. CONDITIONAL USE PERMIT 53
SECTION 36. NUISANCES 54
SECTION 37. VARIANCES 56
SECTION 38. ADMINISTRATION 57
SECTION 39. CONSTRUCTION TRAILERS USE REGULATIONS 57
SECTION 40. AMENDMENTS 58
SECTION 41. ADMINISTRATIVE FEES 60
SECTION 42. PENALTIES 60
SECTION 43. EFFECTIVE DATE 60

ORDINANCE NO. 2014-02

AN ORDINANCE ADOPTING A REVISED COMPREHENSIVE ZONING CODE FOR THE TOWN OF EDGEWOOD, NEW MEXICO, INCLUDING ESTABLISHING REGULATIONS, REQUIREMENTS, AND PROCEDURES, PROVIDING FOR PENALTIES FOR ANY VIOLATIONS THEREOF, AND REPEALING ORDINANCE NO. 2003-4. BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF EDGEWOOD, NEW MEXICO, AS FOLLOWS:

SECTION 1. TITLE

These regulations shall be known as the "Comprehensive Zoning Ordinance" of the Town of Edgewood, New Mexico and shall be referred to herein as "this Ordinance".

SECTION 2. PURPOSE

The regulations and restrictions of this Ordinance are designed to avoid congestion in the streets and public ways; to secure safety from fire, flood and other dangers; to promote the general welfare of the community; to protect and conserve water resources; to prevent the overcrowding of land; to facilitate provisions for transportation, water, sewerage, schools, parks, and other community requirements; to conserve the value of property; and to encourage the most appropriate use of land throughout the Town of Edgewood.

SECTION 3. APPLICABILITY

No structure shall be constructed, or placed, and no land use commenced within the Town of Edgewood except as authorized by this Ordinance. The provisions of this Ordinance are held to be minimum requirements to carry out the purpose of this Ordinance and are not intended to interfere with any other laws, covenants, or ordinances. Whenever any provisions of this Ordinance are more or less restrictive than other laws, covenants, or ordinances, then whichever is more restrictive shall govern.

SECTION 4. DEFINITIONS

A. Word Forms. Words used in the present tense include the future tense, and words used in the future tense include the present tense. All pronouns used in this Ordinance shall include the masculine, feminine, and neuter gender, in addition to the singular and the plural, and the context of this Ordinance shall be read accordingly. The words "shall" and "must" are mandatory, and the word "may" is permissive. All words defined herein are capitalized throughout the text of this Ordinance.

B. Definitions. For the purpose of this Ordinance, standard dictionary definitions are used except for certain words or phrases used herein which shall be deemed as follows:

1. **"Abandoned Well"** means a Wellhead for which use has been permanently discontinued or which is in such disrepair that its continued use for the purpose of obtaining groundwater is impracticable or may constitute a health hazard.
2. **"Accessory"** means subordinate and incidental to a principle use or structure on the premises.
3. **"Adult Amusement Establishment"** means an establishment such as a Lounge, auditorium, bar, cabaret, concert hall, nightclub, restaurant, theater, or other commercial establishment that provides amusement or entertainment featuring one or more of the following: A live performance or act distinguished or characterized by an emphasis on the depiction, description, exposure, or representation of

Specified Anatomical Areas or the conduct or simulation of Specified Sexual Activities.

4. **"Adult Cabaret"** means a type of Adult Amusement Establishment, whether a Lounge, nightclub, bar, restaurant or similar establishment, which regularly features any type of live entertainment characterized by its emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Parts, or that is intended to provide sexual stimulation or sexual gratification.
5. **"Agricultural-Related Business"** means a business operated on an agricultural parcel, related to or supportive of agricultural activities, such as blacksmithing, agricultural implement repair, and/or roadside sale of agricultural products.
6. **"Airport Imaginary Surface"** means imaginary areas in space or on the ground that are established in relation to the airport and its Runways. Imaginary areas for private use airports are defined by the Primary Surface and Approach Surface.
7. **"Airport Sponsor"** means the owner, manager, or other Person or entity designated to represent the interests of an airport.
8. **"Approach Surface"** means a surface longitudinally centered on the extended Runway centerline and extending outward and upward from each end of the Primary Surface. An Approach Surface is applied to each end of the Runway. The inner edge of the Approach Surface is the same width as the Primary Surface and it expands uniformly to a width of 450 feet for that end of a private use airport with only visual approaches. The Approach Surface extends for a horizontal distance of 2,500 feet at a slope of 20 feet outward for each one foot upward.
9. **"Basement"** means the lowest story of a Building that is located below the main floor.
10. **"Boarding, Rooming, or Lodging House"** means a Building other than a hotel, motel, or restaurant where lodging, with or without meals, is provided for compensation. Such Building shall not contain more than eight (8) guest rooms. This definition includes bed-and-breakfast enterprises.
11. **"Building"** means a structure, having a roof and intended to be used for sheltering people, animals, property, and/or business activity.
12. **"Building Height"** means the height of the Building as measured from six inches (6") below the lowest finished floor, not including the Basement, to the highest point of the Building based either on the top of the parapet or coping of a flat-roofed Building, or the ridge of a sloping roof. No part of any Building shall be constructed above the permitted height.
13. **"Caretaker House"** means a secondary Building incidental to the main Building used for residential purposes by a custodian taking care of a property.
14. **"Common Area"** means a portion of the land within the Master Plan Zone, permanently designated for use as an Open Space, provided that the access ownership and maintenance responsibilities of the Common Area are clear.
15. **"Conditional Use"** means a use, which may be or become a nuisance or hazard to neighboring properties if proper safeguards are not taken. Conditional Uses require a permit following review and approval by the Planning & Zoning Commission.
16. **"Conservation Easement"** means an easement granting a right or interest in real property that is intended to preserve specified areas predominantly in their natural condition or to prohibit Buildings and structures on land graded, revegetated, and constructed to an approved condition; retaining such areas as suitable for habitat protection, flood control, or scenic Open Space within the Town of Edgewood.

17. **"Construction Trailer"** means temporary living quarters used in conjunction with a construction project on the subject Lot by the owner-occupants of a single-family dwelling being constructed, undergoing substantial renovation or being rebuilt due to fire or natural disaster.
18. **"Contamination"** means the presence of any harmful substances in the water supply, which is likely to injure human health, animal or plant life, property, or public welfare.
19. **"Density"** means the number of Dwelling Units per acre of land intended for such use on designated buildable area, excluding dedicated public right-of-ways. Density shall be expressed in terms of number of Dwelling Units per gross residential acre. In determination of the maximum number of units to be allowed, any proportional fraction thereof shall be the nearest whole number.
20. **"Developer"** means any Person, corporation, organization, or other legal entity constructing or creating improvements to the land.
21. **"Dilapidated Buildings"** means any Building, structure or house upon any commercial, industrial or residential property which is ruined, damaged or is covered with ruins, rubbish, wreckage, trash or debris.
22. **"Double Frontage Lot"**: see "Lot, Double Frontage".
23. **"Dwelling, Multiple"** means a structure containing two or more Dwelling Units.
24. **"Dwelling, Singular"** means a Dwelling Unit which is not physically connected to any other Dwelling Unit(s).
25. **"Dwelling Unit"** means any structure or part of a structure containing one or more connected rooms designed to be occupied by one family, and is used for living and sleeping purposes. A Dwelling Unit may include Manufactured Homes or site built housing.
26. **"Floor Area"** means the total gross area of all floors of a Building, expressed in square feet measured from the outside surface of exterior walls.
27. **"Floor Area Ratio"** means the relationship of the Floor Area to the Lot Area, computed by dividing the Floor Area by the Lot Area.
28. **"Front Lot Line"**: see "Lot Line, Front".
29. **"Front Setback"**: see "Setback, Front".
30. **"Hazardous Materials"** means any substances defined in the Federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), section 101 (14), any substances designated as hazardous by the EPA pursuant to CERCLA section 102(a), or as regulated under Subtitle C of the Federal Resource Conservation and Recovery Act (RCRA).
31. **"Hobby Breeder Site"** means any residence, Building or other structure used in whole or in part for keeping, raising or breeding animals registered with a nationally or internationally recognized animal registry organization. The resultant offspring are not sold for resale to commercial outlets or for the purpose of research, testing, or laboratory experimentation. This breeder site produces less than five (5) litters per year.
32. **"Home Occupation"** means a business or commercial activity which is conducted within a Dwelling Unit or an Accessory structure within a residential Zone District, and which is clearly secondary to the residential use of the premises.
33. **"Light Industrial (Light Industry)"** means wholesale and warehousing uses as well as those industrial uses that include fabrication, manufacturing, assembly or processing of materials that are in refined form and that do not in their transformation create smoke, gas, odor, dust, noise, vibration of earth, soot or

lighting to a degree that is offensive when measured at the property line of the subject property. Examples of light industries include, but are not limited to, the manufacturing or assembly of clothes, shoes, furniture, consumer electronics and home appliances.

34. **"Lot"** means a tract or parcel of land platted and placed on the appropriate county clerk's record in accordance with laws and ordinances, and with access to a public right-of-way.
35. **"Lot Area"** means the area contained within the boundary lines of the Lot.
36. **"Lot, Double Frontage"** means any Lot bordered by two (2) parallel or approximately parallel streets.
37. **"Lot Line, Front"** on an interior lot, means the line separating the lot from the street or right-of-way. On a corner or through lot, means the line separating the lot from both streets or rights-of way.
38. **"Lot Line, Rear"** means the boundary line of a Lot which is opposite and most distant from the Front Lot Line and does not connect to the Front Lot Line.
39. **"Lot Line, Side"** means any Lot boundary line which is not a Front Lot Line or a Rear Lot Line.
40. **"Lounge"** means a business engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises.
41. **"Manufactured Home"** means a manufactured home or modular home that is a single-family dwelling with a heated area of at least thirty-six (36) by twenty-four (24) feet and at least eight hundred sixty-four square feet (864 sq. ft) and constructed in a factory to the standards of the United States department of housing and urban development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 or the Uniform Building Code, as amended to the date of the unit's construction, and installed consistent with the Manufactured Housing Act and with the rules made pursuant thereto relating to permanent foundations.
42. **"Master Plan"** refers to a specific area by using words, pictures, and maps describing a proposal for development of a large ownership or multiple ownership proposed for incremental or independent subdivision applications.
43. **"Meteorological Tower (Met Tower)"** means the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.
44. **"Mobile Home"** means a movable or portable housing structure larger than forty (40) feet in body length, eight (8) feet in width or eleven (11) feet in overall height, designed for and occupied by no more than one (1) family for living and sleeping purposes that is not constructed to the standards of the United States department of housing and urban development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 or Uniform Building Code, as amended to the date of the unit's construction or built to the standards of any municipal building code. **Recreational Vehicles are not Mobile Homes.**
45. **"Mobile Home Park"** means a Lot on which space is leased or rented by more than one (1) Mobile Home for occupancy for thirty (30) days or more, and which contains permanent facilities and services for the use of the park occupants.

46. **"Motor Vehicle"** shall mean any self-propelled vehicle which as originally built contained an engine, regardless of whether it contains an engine at any other time, including, without limitation, automobiles, trucks, buses, motor homes, motorized campers, motorcycles, motor scooters, tractors, snowmobiles, dune buggies and other off-the-road vehicles.
47. **"Multiple Dwelling":** see "Dwelling, Multiple".
48. **"National Flood Insurance Program"** means the Federal program promulgated by the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973. The Town is a participating community in this program and has adopted floodplain management regulations for designated flood prone areas within the Town.
49. **"Non-Commercial Wind Energy Conversion System (Non-Commercial WECS)"** means a wind energy conversion system that is incidental and subordinate to another use on the same parcel and supplies electrical power solely for Applicant's on-site energy generation and consumption with an aggregate generating capacity of 100 kw or less and generating less than 40 decibels at the property line.
50. **"Nonconforming Uses, Lots or Structures"** means any Building, structure or portion thereof, or use of any Building or land which does not conform to the regulations of this Ordinance and which lawfully existed on the effective date of the regulations to which it does not conform.
51. **"Nuisance Vehicles"** means any inoperable, partially dismantled or wrecked Motor Vehicle of all types upon any commercial, industrial or residential property. Licensed wrecking yards are exempted provided that the property does not violate the unsightly appearance provision of this ordinance.
52. **"Open Space"** means any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such Open Spaces.
53. **"Overlay Zone"** means a Zone District placed over other Zone Districts such that special zoning requirements are imposed in addition to those of the underlying Zone District. Development within the overlay district must conform to the requirements of both zoning districts, or the more restrictive of the two (2) districts.
54. **"Overlay Zone, Wellhead Protection"** means an area designated by the Town of Edgewood to protect the groundwater source of municipal water supply wells from Contamination originating from human activities. Development within the overlay district must conform to the requirements of both zoning districts or the more restrictive of the two (2) districts.
55. **"Parking, Off Street"** means an area on a Lot used for required parking of Motor Vehicles as regulated by this Ordinance.
56. **"Permanent Foundations"** are defined as constructed or assembled components consisting of durable materials (i.e. concrete, masonry, treated wood, or other approved materials), and are required to be constructed on-site and shall have attachments points to anchor and stabilize the Manufactured Home. The design of the foundation shall be DAPIA approved or designed by a licensed professional engineer in accordance with the manufacturer's specifications.
57. **"Permissive Use"** means any use authorized in a particular Zone District established by this Ordinance.
58. **"Person"** means any individual, estate, trust, receiver, association, club,

corporation, company, firm, partnership, or other entity.

59. **"Planning & Zoning Commission"** means the Planning & Zoning Commission of the Town of Edgewood.
60. **"Planning & Zoning Official"** means that person authorized by the Town to administer the provisions of this Ordinance.
61. **"Primary Surface"** means a surface longitudinally centered on a Runway. The Primary Surface ends at each end of a Runway. The elevation of any point on the Primary Surface is the same as the elevation of the nearest point on the Runway centerline. The width of the Primary Surface is 200 feet.
62. **"Property"** includes, in addition to the owner's Lot or tract of land, whether improved or vacant, all easements of record, and the sidewalk, curb, gutter and parking area of any street abutting such Lot or tract of land.
63. **"Property Nuisance"** means anything that is created or maintained on any commercial, industrial or residential property within the Town limits without lawful authority which is injurious to public health, safety, morals or welfare or which by its unsightly appearance would tend to discourage residential or commercial development in its immediate area.
64. **"Public Utility Structure"** means any substation, equipment housing building, or similar structure used or operated by a public utility.
65. **"Rear Lot Line"**: see "Lot Line, Rear".
66. **"Rear Setback"**: see "Setback, Rear".
67. **"Recreational Vehicle"** means a vehicle which is designed or used as temporary living quarters for recreation, camping, or travel, and which may be a self propelled motor vehicle or designed to be towed or mounted on a Motor Vehicle. Recreational vehicle also includes boats, trailers, and off road vehicles. Recreational Vehicles shall not be stored within the Front Setback of a Lot for a time period exceeding one (1) week.
68. **"Recreational Vehicle Campground"** means a Lot, which is utilized for overnight and short term parking of occupied Recreational Vehicles, tents or similar devices used solely for the purpose of temporary living and sleeping in portable housing. Maximum length of occupancy shall be ninety (90) days. No individual metered utilities will be provided.
69. **"Rotor Diameter"** means the cross sectional dimension of the circle swept by the rotating blades of a Wind Generator.
70. **"Runway"** means a defined area on an airport prepared for landing and takeoff of aircraft along its length.
71. **"Secondary Quarters"** means a secondary Building with a permanent foundation that is incidental to the main Dwelling Unit, and which is used only for noncommercial, residential purposes, including housing of caretakers, workers, and boarding guests.
72. **"Setback"** means the minimum allowable distance between any Building and the nearest Lot line of the Lot upon which it is located, consisting of Open Space, and unoccupied by any structure except as otherwise provided in this Ordinance. Walls, fences, signs, and public utility poles are exempt from Setback restrictions.
73. **"Setback, Front"** means the minimum allowable distance between any Building and the property line exclusive of any road easements of the Lot on which such Building is located. No more than one (1) Front Setback shall be designated on corner Lots or Double Frontage Lots.
74. **"Setback, Rear"** means the minimum allowable distance between any Building

and the Rear Lot Line exclusive of any road easements of the Lot on which such Building is located. On Double Frontage Lots, the Rear Setback shall be designated on the opposite side of the Lot from the designated Front Setback.

75. **"Setback, Side"** means the minimum allowable distance between any Building and a Side Lot Line exclusive of any road easements of the Lot on which such Building is located. On corner Lots, a Side Setback shall be designated along one (1) of the Lot lines bordering a road or street.
76. **"Sexually-Oriented Business"** means an Adult Amusement Establishment or other commercial enterprise the primary business of which is the offering of services intended to provide sexual stimulation or sexual gratification to the customer, whether by live performance or other. Sexually-Oriented Businesses include Adult Cabarets, adult bookstores, adult theaters, adult motion picture arcades, escort bureaus, strip clubs, adult model studios, adult motels/hotels, businesses that sell or distribute adult merchandise or sexually-oriented material, or any other business which offers to its patrons products, merchandise, services or entertainment characterized by an emphasis on matters depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Parts but not including those uses or activities, the regulation of which is preempted by state law. Sexually-Oriented Business shall also include any establishment which, as a regular and substantial course of conduct provides or allows performers, models, or employees to appear in any place in lingerie.
77. **"Side Lot Line"**: see "Lot Line, Side".
78. **"Side Setback"**: see "Setback, Side".
79. **"Singular Dwelling"**: see "Dwelling, Singular".
80. **"Small Engine Repair and Service"** means a use conducted totally inside a Building involving maintenance and repair of low-power internal combustion engines or electric engines. Equipment repaired includes, but is not limited to, chain saws, string trimmers, leaf blowers, snow blowers, lawn mowers, wood chippers, go-karts and sometimes more powerful engines used in outboard motors, snowmobiles, and motorcycles.
81. **"Small Wind Energy Conversion System (Small WECS)"** means a wind energy system that (1) is used to generate electricity, (2) has a nameplate capacity of 100 kilowatts or less, and (3) has a Total Height of 170 feet or less.
82. **"Specified Anatomical Areas"** means:
    a. Less than completely and opaquely covered human genitals, pubic region, buttock or anus, and/or female breast below a point immediately above the top of the areola to and including the bottom of the breast. Covering of only the nipple and areola of the breast shall not constitute such covering;
    b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered; and
    c. A covering or device that, when worn, gives the appearance of or simulates the above listed Specified Anatomical Areas.
83. **"Specified Sexual Activities"** means:
    a. Human genitals in a state of sexual stimulation or arousal;
    b. Actual or simulated sex acts of human masturbation, sexual intercourse, sodomy, or similar acts;
    c. Fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast;

d. Striptease or the removal of clothing to the point where Specified Anatomical Parts are minimally clad; or
e. Any other similar acts.

84. **"Storage Trailer"** means a manufactured container, with or without a chassis and wheels, typically of metal or fiberglass construction, intended for storing or shipping goods. Examples include, but are not limited to, modular shipping containers, semi-trailers or truck bodies.
85. **"Total Height"** means the vertical distance from ground level to the tip of a Wind Generator blade when the tip is at its highest point.
86. **"Variance"** means a relaxation of the terms of this Ordinance where such relaxation will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary hardship.
87. **"Underground Storage Tank"** means a single tank or combination of tanks, including underground pipes connected thereto, which are used to contain an accumulation of fuels, Hazardous Materials, or other regulated substance, and the volume of which, including the volume of the underground pipes connected thereto, is ten per centum (10%) or more beneath the surface of the ground. This definition does not include septic tanks.
88. **"Wellhead"** means the structural element of a constructed water well which is the source of a groundwater supply system.
89. **"Wind Energy Conversion System (WECS)"** means all necessary equipment that converts and then stores or transfers energy from the wind into usable forms of energy. This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other component used in the system.
90. **"Wind Generator"** means blades and associated mechanical and electrical conversion components mounted on top of the Wind Tower.
91. **"Wind Tower"** means the monopole, freestanding, or guyed structure that supports a Wind Generator.
92. **"Zone District"** means a mapped area of the Town of Edgewood where regulations governing the use of Buildings, structures, and land are uniform.

SECTION 5. REVIEW AND DECISION-MAKING BODIES

Summary of Ordinance Administration and Review Roles:

Review and Decision-Making Bodies and Responsibilities				
PROCEDURE	§	GB	PC	Staff
Amendments to the Text of the Code	Section 38	R\D	R\REC	R\REP
Annexations	Section 9	R\D	R\REC	R\REP
Conditional Use Permit	Section 33	A	R\D	R\REP
Development Plans	Section 8			R/D
Rezonings	Section 38	R\D	R\REC	R\REP
Easements	Subdivision Ordinance			
MasterPlans	Section 23	R\D	R\REC	R\REP
MasterPlan Amendments	Section 23	A	R\D	R\REP
Subdivision of Land	Subdivision Ordinance	A	R\D	R\REP

Variances	Section 35	A	R\D	R\REP
NOTES: PC=Planning & Zoning Commission GB=Town Governing Body Staff=Planning & Zoning Official	"A"=Appeal "R"=Review "R/D"= Review and Decision "R/REC"=Review and Recommendation "R/REP"=Review and Report			

1. Planning & Zoning Commission.

The Planning & Zoning Commission is the principal Town administrative board for administering the requirements of this Ordinance. The Planning & Zoning Commission shall be established in accordance with the terms of the Planning Zoning Commission Ordinance, and shall have all powers authorized therein. In addition, the Planning & Zoning Commission shall be the principal Town administrative board for:

A. Reviewing amendments, modifications, or time extensions of plans, designs, plats, and restrictions.

B. Reviewing and granting or denying appeals from decision of Town staff regarding the drainage and grading ordinance.

C. Providing to administrative and governmental officials of the Town recommendations for public improvements and for the financing of such improvements. Public officials shall, upon request, furnish to the Planning & Zoning Commission within a reasonable time such available information as it may require for its work.

D. Make reports and recommendations relating to the development of the Town to public officials and agencies; public utility companies; civic, educational, professional, and other organizations; and citizens with regard to:

i. Growth management, land use, transportation, development review procedures, urban design and capital improvements; and

ii. Neighborhood and community planning, and other community issues as they relate to long-term planning.

2. Other Recommendations to Town governing body

The Planning & Zoning Commission is the principal Town administrative board reviewing and making recommendations to the Town governing body regarding:

a. The adoption of the Comprehensive Plan and proposed revisions and amendments thereto;

b. Annexations;

c. Rezonings; and

d. Proposed amendments to this chapter.

3. Other Powers and Duties

a. The Planning & Zoning Commission and/or its staff, in the performance of its functions, may enter on any land, make examinations and surveys, and place and maintain necessary monuments and marks thereon. Any site visits by the Commission are public hearings subject to the requirements of the Open Meetings Act.

b. The Planning & Zoning Commission may request staff to review a proposed Town zoning map amendment or a proposed amendment to this chapter, such Person shall issue comments and non-binding recommendations in response to the request.

4. Membership and Procedures

a. Composition. The Planning & Zoning Commission shall be composed of not less than five (5) members, and one (1) alternate either residing in the Town or New

Mexico residents who have sufficient contacts with the Town acceptable to the Council, and qualified by training, experience, and ability to exercise sound and practical judgment on civic, social, economic, and governmental affairs. The members shall be appointed by the mayor with the advice and consent of a majority vote of all the members of the Town governing body.

b. **Appointment Terms.** A majority of the members on the first planning board shall be appointed for one-year terms and the balance of the members shall be appointed for two- year terms. Each subsequent term shall be for two years or less in order to maintain the original staggering of terms of membership.

c. **Chairman and Vice Chair.** The Planning & Zoning Commission shall elect a chairman and a vice chair for one-year terms.

d. **Meetings.** The Planning & Zoning Commission shall hold at least one (1) regular meeting each month. The Chairman of the Commission may cancel any regularly scheduled meeting if no items are before the Commission for that meeting. Failing to attend three consecutive regular meetings or failing to attend thirty-three percent (33%) or more of the regular meetings in any year shall constitute an automatic tender of resignation by such member, which the Town governing body may accept or reject in its discretion.

e. **Vacancy.** A vacancy shall be filled in the same manner in which the original appointment was made. A member appointed to fill a vacancy shall serve for the remainder of the unexpired term.

f. **Records of Membership**. Records of the status of membership on the Planning & Zoning Commission shall be kept by the Town Clerk.

g. **Quorum.** A quorum for the Planning & Zoning Commission shall be at least three (3) members.

h. **Compensation of Members** Planning & Zoning Commissioners shall serve without compensation.

i. **Records.** Full and complete records of Planning & Zoning Commission meetings and actions shall be kept by the Town Clerk pursuant to Town rules and regulations, and the New Mexico Open Meetings Act.

SECTION 6. REVIEW AND APPROVAL PROCEDURES

A. Authority to File Applications

1. Unless otherwise specified in this chapter, applications for review and approval under this chapter may be initiated by:

- **a.** the owners of the property that is the subject of the application;
- **b.** the owners' authorized agents;
- **c.** any review or decision-making body;
- **d.** Planning & Zoning Official.

2. When an authorized agent files an application under this chapter on behalf of a property owner, the agent shall provide the Town with written documentation verified under penalty of perjury that the owner of the property has authorized the filing of the application.

3. When a review or decision-making body initiates action under this chapter, it does so without prejudice toward the outcome.

B. Pre-Application Conferences

1. Applicability Pre-application conferences are required prior to submittal of applications for amendment of the shape, boundary, or area of any Zone District, whether by annexation, rezoning or a subdivision.

2. Procedures

a. Not more than fifteen (15) calendar days before filing an application, the applicant shall initiate a pre-application conference with the Planning & Zoning Official. No application may be accepted until after a pre-application conference takes place. All Town departments involved or affected by the application should be invited to attend the pre-application conference, if possible. The Town will strive to provide to the applicant contact information for any entities which are unable to attend the pre-application conference, when available.

1. For annexations and rezonings, the purpose of the pre-application conference shall be to review the proposal for conformity with all requirements of the Town of Edgewood Comprehensive Plan, subdivision ordinance, zoning ordinance; availability of community facilities and utilities, proposed utilities and street improvements, required parks and recreation dedications and Open Space improvements as dictated by Town ordinances and the Comprehensive Plan.

b. This section does not assume any responsibility for a lack of understanding of these regulations by the applicant.

C. Form of Application. Applications required under this chapter shall be submitted in a form and in such number as required by the official responsible for accepting the application.

D. Schedule of Fees, Charges, and Expenses. The Town governing body shall establish by resolution a schedule of fees, charges, and expenses and a collection procedure for review of Building permit reviews, appeals, subdivisions, amendments, and other matters pertaining to these regulations. This schedule of fees shall be posted in the Planning and Zoning Department and may be altered or amended only by the Town governing body.

E. Payment of Fees. No considerations shall be made and no permit or approval required under this chapter shall be issued or granted unless and until all costs, charges, fees or expenses then due have been paid in full.

SECTION 7. GENERAL PROVISIONS

A. Access to Structures. All structures shall be located on Lots providing safe and convenient access for providing municipal services, fire protection, and any required Off Street Parking or loading.

B. General Provisions and Public Rights of Way. All litter, trash, rubbish, waste or garbage produced by construction activities shall be contained in receptacles, which prevent such materials from littering adjacent properties. All such litter, trash, rubbish, waste or garbage shall be completely and properly removed from all construction sites prior to the final inspection. The contractor shall not dump waste or other material on private or public property, except for designated refuse sites, without first obtaining from

the owner written permission for such dumping. All such dumping shall be in strict conformance with all provisions of this Code and any other governmental rules and regulations, including the requirement for a fill permit.

C. Home Occupations. All Home Occupations shall be subject to the following requirements:

1. Only members of the residing family and no more than four other Person(s) shall be engaged on premises in the Home Occupation;
2. There shall be no exterior indication of the Home Occupation;
3. Exterior storage of materials and/or equipment necessary for the Home Occupation is allowed only if it is surrounded by a solid wall or fence sufficient to provide a visual barrier to any contiguous residential properties, and such wall is in conformance with the provisions of this Ordinance.;
4. Not more than twenty-five percent (25%) of the Floor Area of the Dwelling Unit shall be devoted to the Home Occupation;
5. A Home Occupation shall not generate more than 6 round-trip vehicular trips per day;
6. No parking in the public right-of-way shall occur as a result of the Home Occupation except for occasional business gatherings;
7. No building addition shall be permitted to the principal structure for the purpose of accommodating the Home Occupation;
8. No equipment or process shall be used in a Home Occupation, which creates a nuisance or otherwise disrupts any person or property located off the premises where the Home Occupation is located, such as noise, dust, vibration, glare, fumes, odors, flicker, electrical interference, or other nuisances detectable to the normal senses.
9. The production, dumping or storage of combustible, toxic or other Hazardous Materials or substances shall be expressly prohibited on the site of the Home Occupation; and
10. A business license shall be obtained when required for the operation of the Home Occupation.

D. Manufactured Home Installation. Regardless of any Setback regulations provided in this Ordinance, no Manufactured Home shall be installed less than twenty (20) feet from any other Dwelling Unit. Manufactured Homes shall be limited to residential use only. Prior to occupancy, Manufactured Homes shall be connected to utilities, provided with skirting of a durable material, and stabilized and anchored in accordance with the requirements promulgated by the Manufactured Housing Act and any regulations made pursuant to that act.

E. Manufactured Home Installation. Manufactured Homes shall be installed on a Permanent Foundation as defined by the Manufactured Housing Act (NMSA 1978).

F. Vision Clearance. At all road or street intersections, no obstructions to view shall be placed or maintained between three feet and eight feet above the roadway level in a triangular space at the road or street corner on a corner Lot. Such triangular space shall be bounded by the corner property lines and a diagonal line connecting points that are 25 feet in distance from the property line intersection.

G. Dwelling Prohibition. Dwelling prohibition in any Zone District shall not be construed to prohibit from any commercial Lot one (1) Caretaker House of an individual (and his family) acting in the capacity of manager, caretaker or watchman.

SECTION 8. DEVELOPMENT REVIEW

A. Requirement for Local Review. For the purpose of this Ordinance, no Building, structure or land use shall be commenced, nor Manufactured Home installed upon any site within the Town of Edgewood without being reviewed by the Planning & Zoning Official. Building permit applications shall be submitted to the Planning & Zoning Official for zoning compliance review and signature before applying for a State Building Permit.

Manufactured Home installation permits shall be reported to the Planning & Zoning Official upon issuance to the Manufactured Home owner. Elevation Certificates are required for all structures built or placed in designated flood plains within the Town.

B. Development Plans. Unless otherwise provided herein, any site development plan that is required in this Ordinance shall include the following components:

1. A map, to scale, showing boundaries and the location, dimensions, and purpose of all Buildings, structures and land uses, both existing and proposed;
2. The location and dimensions of all contiguous streets or roads, on-site utility easements (including indicating their purpose), and parking and loading areas;
3. A general description of the natural features of the site such as topography and vegetation, any proposed alteration of those natural features, and an identification of any special drainage or flooding conditions on the site including flood plains;
4. A general description of the Buildings, and structures on contiguous lands; and
5. An exterior lighting plan, if applicable, that shows the locations and type of lighting proposed.

C. Review Process. The Planning & Zoning Official shall determine if a Variance, zone change, or Conditional Use permit is indicated and if so, will notify and advise the appropriate person of subsequent procedures required by this Ordinance. The Planning & Zoning Official shall also review development proposals for compliance with the National Flood Insurance Program. The completed development plan shall be returned to the applicant within three (3) working days for residential reviews and within three (3) weeks for commercial reviews.

SECTION 9. ZONE DISTRICT BOUNDARIES

A. Districts. In order to carry out the provisions of this Ordinance, the Town of Edgewood is hereby divided into Zone Districts, which are described in the following sections. The regulations prescribed in this Ordinance shall apply within the corporate limits of the Town of Edgewood.

B. Zoning Map. The boundaries of all Zone Districts within the Town of Edgewood are hereby established as shown on the TOWN OF EDGEWOOD ZONING MAP as amended from time-to-time, which shall be made a part of this Ordinance as if fully described herein.

C. Interpretation. Where due to the scale, lack of detail, or illegibility of the official

TOWN OF EDGEWOOD ZONING MAP, there is any uncertainty, contradiction, or conflict as to the intended location of any Zone District boundaries shown therein, interpretations concerning the exact location of Zone District boundary lines shall be determined by the Town governing body with the advice of the Planning & Zoning Commission.

D. Multiple Zoned Lots. Circumstances may justify the need to designate more than one (1) Zone District on a single Lot. In such cases, Zone District boundaries within a multiple zoned Lot shall be more fully described in the TOWN OF EDGEWOOD ZONING MAP by showing any necessary dimensions of Zone Districts in relation to existing property lines.

E. Annexation. Any request or proposal for annexation of territory to the Town of Edgewood shall be filed and processed concurrently with an application for an amendment to the TOWN OF EDGEWOOD ZONING MAP as provided in this Ordinance. Zoning within annexed areas must be consistent with contiguous zoning, or must be in accordance with the Comprehensive Plan of the Town of Edgewood.

SECTION 10. TOE-AP AIRPORT SAFETY OVERLAY ZONE

A. Purpose: The purpose of this airport safety Overlay Zone is to encourage and support the continued operation and vitality of the Sandia Airpark, by establishing safety standards to promote air navigational safety at this privately-owned public use airport. These safety standards are to promote air navigational safety at this airport as well as the safety of those living near this airport.

B. Uses permitted outright: In the airport safety airport safety Overlay Zone the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this ordinance.

1. Single family residences;
2. Aircraft hangars;
3. Runways and taxiways; and.
4. Commercial, retail and aircraft refueling as established in the Master Plan of the Sandia Airpark filed in the Santa Fe County Clerk's Office in book 354, page 43, and 44.

C. Height Limitations on Allowed Uses in Underlying Zone. All uses permitted by the underlying zone shall comply with the height limitations in this section. When height limitations of the underlying zone are more restrictive than those of this airport safety Overlay Zone, the more restrictive shall govern.

1. Except as provided in subsection 2 of this Section, no structure, tree, plant, or other object of natural growth or artificial construction shall penetrate an Airport Imaginary Surface.
2. Height Variances may be permitted when supported in writing by the Airport Sponsor. Applications for height Variances shall follow Variance procedures established in Section 36.

D. Procedures. An applicant seeking a land use or limited land use approval in an area within this airport safety Overlay Zone shall provide the following information in addition to any other information required in the permit application:

1. A map or drawing showing the location of the property in relation to the Airport Imaginary Surfaces. The Planning & Zoning Commission or its designee shall provide the applicant with appropriate base maps upon which to locate the property.
2. Elevation profiles and a site plan, both drawn to scale, including the location and height of all existing and proposed structures, measured in feet above mean sea level.
3. If a height Variance is requested, letters of support from the Airport Sponsor.

E. Nonconforming Uses.

1. These regulations shall not be construed to require the removal, lowering or alteration of any structure not conforming to these regulations. These regulations shall not require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this airport safety Overlay Zone.
2. Now withstanding subsection 1, of this section, the owner of any existing structure that has an adverse effect on air navigational safety as determined by the Department of Aviation shall install or allow the installation of obstruction markers as deemed necessary by the Department of Aviation, so that the structures become more visible to pilots.
3. No land use or limited land use approval or other permit shall be granted that would allow a Nonconforming Use, Lot, or Structure to become a greater hazard to air navigation than it was on the effective date of this airport safety Overlay Zone.

F. Aviation Easement. Within this airport safety Overlay Zone, the owners of properties that are the subject of applications for land use or limited land use decisions, for Building permits for new residential, commercial, industrial, institutional or recreational Buildings or structures intended for inhabitation or occupancy by humans or animals, or for expansions of such Buildings or structures by the lesser of 50 % or 1000 square feet, shall, as a condition of obtaining such approval or permits, dedicate an aviation easement to the Airport Sponsor. The aviation easement shall be in a form acceptable to the Airport Sponsor and shall be signed and recorded in the deed records of the County. The aviation easement shall allow unobstructed passage for aircraft. Property owners or their representatives are responsible for providing the recorded instrument prior to issuance of Building permits.

SECTION 11. AG AGRICULTURAL ZONE

The following provisions shall apply to all land within an agricultural Zone District:

A. Intent. The purposes of the agricultural district are to protect and promote the continuation of agricultural activities in areas where they are already established:

1. To permit, with limited exceptions, only agricultural land uses and activities; and
2. To separate agricultural land uses and activities from incompatible residential, commercial, and industrial development, and public facilities.

B. Permissive Uses. No building, structure, or land shall be used or occupied except as indicated and for the purposes permitted in this Zone District. Any of the following permissive uses are allowed in this Zone District:

1. All forms of agriculture, horticulture, ranching and animal husbandry, including necessary agricultural structures;

2. Leasing pasture for grazing;
3. Agricultural and ranch dwellings;
4. Production nurseries and production greenhouses;
5. Wildlife refuges, fish hatcheries and fish farms;
6. The following Accessory uses:
   Roadside stands for the sale of agricultural products; At least half of which are grown on the premises. Off-road parking shall be provided for all employees and customers and the stand shall be set back at least 20 feet from all property lines and road rights of way. The stand shall not be more than 300 square feet in size;
7. Non-commercial recreation (family pool, tennis court, etc.);
8. Non-commercial antenna or communications facility.

C. Conditional Uses. The following uses may be allowed in this Zone District only upon the granting of a permit in accordance with this Ordinance.

1. Animal hospitals, veterinary facilities, and kennels;
2. Riding schools and/or horse boarding stables;
3. Agricultural related businesses that are conducted outside the home, subject to the following regulations;
   a. No more than two (2) acres of land shall be devoted to such use including areas used for structures, parking, storage, display, Setbacks, landscaping, et cetera. Any lane serving the agricultural-related business and a home and/or agricultural contained on the same Lot shall not be included as Lot Area devoted to the agricultural-related business. No additional lane or curb cut to access the agricultural-related business shall be allowed; and
   b. No more than fifty percent (50%) of the area devoted to an agriculture related business shall be covered by Buildings, parking lots, or any other impervious surface; and

D. Incompatible Uses.

Uses not specifically permitted under subsections B or C above shall not be permitted in the agricultural Zone District. In general, uses and activities that induce non-agriculture development, generate urban levels of traffic, require substantial parking or could pose a threat to agricultural water supplies are inconsistent with the purposes of the agricultural Zone District, and are therefore not permitted.

E. Non-Agricultural Lots.

Non-agricultural Lots include Lots or parcels containing less than twenty-five (25) acres and containing one (1) or more Dwelling Units, and/or Lots devoted to uses other than agricultural or residential uses. Lots or parcels of land containing at least twenty-five (25) acres, and which are devoted primarily to agricultural uses, together with a dwelling and/or other Accessory uses, shall be considered agricultural. Agricultural activities may be carried on as part of the use of a non-agricultural Lot.

F. Yard, Coverage, and Height Requirements.

1. All Lots or parcels shall have minimum width of one hundred (100) feet at the Building Setback line and sixty (60) feet at the street right-of-way line.
2. All structures located on non-agriculture Lots shall have a minimum front and rear yard of fifty (50) feet respectively and a minimum side yard of twenty-five

(25) feet on each side.

3. All structures located on agriculture parcels shall have front, rear, and side yard Setbacks of at least fifty (50) feet.
4. Except as otherwise set forth herein, the total impervious coverage, including both Buildings and other impervious surfaces, of a non-agriculture Lot shall not be more than twenty percent (20%); the total Lot coverage of a agricultural parcel shall not be more than ten percent (10%).
5. The maximum height of a residential Building shall be thirty-six (36) feet. The maximum height of all other Buildings and structures, excluding silos and windmills, shall be established by the relevant building code, provided however, that such Buildings and structures shall be Setback a minimum distance equal to the height of the structure plus ten percent (10%).

G. Agricultural Nuisance Disclaimer.
Lands within the agricultural Zone District are used for commercial agricultural production. Owners, residents, and other users of this property may be subjected to inconvenience, discomfort, and the possibility of injury to property and health or even death arising from normal and accepted agricultural practices and operations, including, but not limited to, noise, odors, dust, the operation of machinery of any kind, including aircraft, the storage and disposal of manure, and the application of fertilizers, herbicides, and pesticides. Owners, residents, and users of this property should be prepared to accept these conditions and are hereby put on official notice.

SECTION 12. R-1 CONVENTIONAL 1-ACRE RESIDENTIAL ZONE

A. Intent. The purpose of this Zone District is to provide for the development of residential neighborhoods consisting of Singular Dwellings and certain other uses, which are compatible to the residential character of this district. Density shall be limited to one (1) Dwelling Unit per Lot.

B. Permissive Uses. No Building, structure, or land shall be used or occupied except as indicated and for the purposes permitted in this Zone District. Any of the following Permissive Uses are allowed in this Zone District:

1. One (1) Dwelling Unit per Lot.
2. Accessory Buildings, structures, or uses, subject to the provisions of this Ordinance.
3. Home Occupation, subject to the provisions of this Ordinance.
4. Family daycare home, provided the activity is licensed by the State as a family daycare home.
5. Storage of a Recreational Vehicle provided it is not used as additional living quarters and is not permanently connected to utilities; Recreational Vehicles shall not be stored within the tract Setback of a Lot for a time period exceeding twenty-four (24) hours.
6. Public Utility Structure, provided its location is based on an appropriate Master Plan that has been approved by the Town governing body.
7. Public parks and recreation areas.
8. Secondary Quarters that serve as a single detached extension of the primary Dwelling Unit, and are used exclusively for living and sleeping purposes.

C. Conditional Uses. The following uses may be allowed in this Zone District only upon

the granting of a permit in accordance with this Ordinance:

1. Boarding, Rooming, and Lodging Houses.
2. Church or other religious Building used as a place of worship.
3. Schools, whether public or private, with incidental facilities, provided that the Town governing body has approved a development plan for the site.
4. Manufactured Homes, provided however, that the use of any Manufactured Home as a secondary or Accessory dwelling to the site built primary dwelling shall be limited to a period not to exceed one (1) year unless an extension of time is granted upon renewal of the permit.

D. Prohibited Uses. The following uses are prohibited in this zone:

1. The open storage of inoperative Motor Vehicles or auto parts;
2. The open storage of trash or junk;
3. The open storage of appliances; and
4. Any use not designated a permissive or Conditional Use in this zone, unless otherwise authorized by this Ordinance.

E. District Standards. The following regulations apply to all land uses in this Zone District:

1. Minimum Lot size shall be one (1) acre. Any Nonconforming Lot which existed prior to the effective date of this Section, may continue as a Nonconforming Use in accordance with this Ordinance unless the Council finds at any time that the use is an imminent danger to the public health, safety, and welfare.
2. Setbacks shall be maintained as follows:
   a. Front Setback shall be no less than thirty (30) feet;
   b. Side Setback shall be no less than ten (10) feet, except in cases of corner Lots, where the secondary street Side Setback shall be no less than twenty (20) feet;
   c. Rear Setback shall be no less than ten (10) feet.
3. Off-street parking must be provided in accordance with the requirements set forth herein.
4. Maximum Building Height shall be thirty-six (36) feet.
5. All housing shall be on a Permanent Foundation which shall be inspected and approved by the State of New Mexico.

SECTION 13. R-2 CONVENTIONAL 2-ACRE RESIDENTIAL ZONE

A. Intent. The purpose of this Zone District is to provide for the development of residential neighborhoods consisting of Singular Dwellings and certain other uses, which are compatible to the residential character of this district. Density shall be limited to one (1) Dwelling Unit per lot.

B. Permissive Uses. No Building, structure, or land shall be used or occupied except as indicated and for the purposes permitted in this Zone District. Any of the following Permissive Uses are allowed in this Zone District:

1. One (1) Dwelling Unit per lot.
2. Accessory Buildings, structures, or uses, subject to the provisions of this Ordinance.
3. Home Occupation, subject to the provisions of this Ordinance.
4. Family daycare home, provided the activity is licensed by the State as a family

daycare home.

5. Storage of a Recreational Vehicle provided it is not used as additional living quarters and is not permanently connected to utilities; Recreational Vehicles shall not be stored within the tract Setback of a lot for a time period exceeding twenty-four (24) hours.
6. Public Utility Structure, provided its location is based on an appropriate Master Plan that has been approved by the Town governing body.
7. Public parks and recreation areas.
8. Secondary Quarters that serve as a single detached extension of the primary Dwelling Unit, and are used exclusively for living and sleeping purposes.

C. Conditional Uses. The following uses may be allowed in this Zone District only upon the granting of a permit in accordance with this Ordinance:

1. Boarding, Rooming, and Lodging Houses.
2. Church or other religious Building used as a place of worship.
3. Schools, whether public or private, with incidental facilities, provided that the Town governing body has approved a development plan for the site.
4. Manufactured Homes, provided however, that the use of any Manufactured Home as a secondary or Accessory dwelling to the site built primary dwelling shall be limited to a period not to exceed one (1) year unless an extension of time is granted upon renewal of the permit.

D. Prohibited Uses. The following uses are prohibited in this zone:

1. The open storage of inoperative Motor Vehicles or auto parts;
2. The open storage of trash or junk;
3. The open storage of appliances; and
4. Any use not designated a permissive or Conditional Use in this zone, unless otherwise authorized by this Ordinance.

E. District Standards. The following regulations apply to all land uses in this Zone District:

1. Minimum lot size shall be no less than two (2) acres, exclusive of roadway easements. Any Nonconforming Lot which existed prior to the effective date of this Section, may continue as a Nonconforming Use in accordance with this Ordinance unless the Council finds at any time that the use is an imminent danger to the public health, safety, and welfare.
2. Setbacks shall be maintained as follows:
   a. Front Setback shall be no less than thirty (30) feet;
   b. Side Setback shall be no less than ten (10) feet, except in cases of corner lots, where the secondary street Side Setback shall be no less than twenty (20) feet;
   c. Rear Setback shall be no less than ten (10) feet.
3. Off-street parking must be provided in accordance with the requirements set forth herein.
4. Maximum Building Height shall be thirty-six (36) feet.
5. All housing shall be on a Permanent Foundation which shall be inspected and approved by the State of New Mexico.

SECTION 14. R-3 RESIDENTIAL/INSTITUTIONAL ZONE

A. Intent. The purpose of this Zone District is to accommodate higher-density retirement centers or assisted care facilities. Singular Dwellings or detached structures with Multiple

Dwellings are allowed in this district.

B. Permissive Uses. No Building, structure, or land shall be used or occupied except as indicated and for the purposes permitted in this Zone District.
Any of the following Permissive Uses are allowed in this Zone District:

1. All uses permissive in the R-1 Zone District;
2. Multiple Dwellings provided they are connected to water and sewer systems and subject to the following restrictions:
    a. The Floor Area Ratio shall not exceed 0.5 on any Lot; and
    b. The gross Density of Lots shall not exceed four (4) dwelling units per acre; and
    c. The dedication of Open Space is at least thirty percent (30%), not including roadways, parking lots, or driveways.
3. Retirement Centers and Assisted Care Institutions.

C. Prohibited Uses: The following uses are prohibited in this zone:

1. The open storage of inoperative Motor Vehicles or auto parts;
2. The open storage of trash or junk;
3. The open storage of appliances; and
4. Any use not designated a permissive or Conditional Use in this zone, unless otherwise authorized by this Ordinance.

D. Conditional Uses. The following uses may be allowed in this Zone District only upon the granting of a permit in accordance with this Ordinance:

1. All uses conditional in the R-1 Zone District;

E. District Standards. The following regulations apply to all land uses in this Zone District:

1. Setbacks shall be maintained as follows:
    a. Front Setback shall be no less than fifteen (15) feet;
    b. Side Setback shall be no less than ten (10) feet;
    c. Rear Setback shall be no less than fifteen (15) feet; and
2. Off-street parking must be provided in accordance with the requirements set forth herein.

SECTION 15. R-4 (MANUFACTURED HOME) RESIDENTIAL ZONE

A. Intent. The purpose of this Zone District is to provide for the development of subdivisions for Manufactured Homes. Density shall be limited to one (1) Dwelling Unit per Lot, with a minimum Lot size of no less than one (1) acre.

B. Permissive Uses. No Building, structure, or land shall be used or occupied except as indicated and for the purposes permitted in this Zone District.

Any of the following Permissive Uses are allowed in this Zone District:

1. One (1) Dwelling Unit per Lot;
2. Accessory Buildings, structures, or uses, subject to the provisions of this Ordinance;
3. Home Occupation, subject to the provisions of this Ordinance;
4. Family daycare home, provided the activity is licensed by the State as a family daycare home;

5. Storage of a Recreational Vehicle provided it is not used as additional living quarters and is not permanently connected to utilities; Recreational Vehicles shall not be stored within the tract Setback of a Lot for a time period exceeding twenty-four (24) hours;
6. Public Utility Structure, provided its location is based on an appropriate Master Plan that has been approved by the Town governing body; and
7. Public parks and recreation areas.

C. Conditional Uses. The following uses may be allowed in this Zone District only upon the granting of a permit in accordance with this Ordinance:

1. Boarding, Rooming, and Lodging houses;
2. Secondary Quarters;
3. Church or other religious Building used as a place of worship;
4. Schools, whether public or private, with incidental facilities, provided that a development plan for the site has been approved by the Town governing body.

D. Prohibited Uses: The following uses are prohibited in this zone:

1. The open storage of inoperative Motor Vehicles or auto parts;
2. The open storage of trash or junk;
3. The open storage of appliances; and
4. Any use not designated a permissive or Conditional Use in this zone, unless otherwise authorized by this code.

E. District Standards. All Manufactured Homes shall apply for a development review for installation permitting. The following standards apply to this Zone District:

1. Minimum Lot size shall be no less than one (1) acre, exclusive of roadway easements.
2. Site preparation and foundations. All foundation pad sites shall be cleared of vegetation, on undisturbed soil or approved fill and be graded such that supporting piers are plumb.
3. No Manufactured Home shall be installed or placed unless such Manufactured Home bears a label or has equivalent documentation certifying that the Manufactured Home was constructed in accordance with the Federal Manufactured Home Construction and Safety Standards Act of 1974, or NFPA 501, ANSI 119.1, or equivalent.
4. The Manufactured Home shall have operable, approved smoke detectors installed as required by all applicable laws, codes, or ordinances.
5. The Manufactured Home shall be equipped with two (2) operational exit doors.
6. All utility service connections shall be installed and maintained in accordance with applicable state codes and shall be securely attached and supported as necessary. Water lines and connections shall be protected from freezing in an approved manner.
7. Setbacks shall be maintained as follows:
   a. Front Setback shall be no less than thirty (30) feet;
   b. Side Setback shall be no less than ten (10) feet, except in cases of corner Lots, where the secondary street Side Setback shall be no less than twenty (20) feet;
   c. Rear Setback shall be no less than ten (10) feet: and
   d. The total of all Accessory Buildings located on the Lot shall not exceed the Floor Area of the Building which is the principal use on the premises.

SECTION 16. R-5 RESIDENTIAL MIXED USE ZONE

A. **Intent.** The purpose of this Zone District is to provide for a residential neighborhood consisting of Singular Dwellings that are site-built and Manufactured Homes, which are compatible to the residential character of this district. Density shall be limited to one (1) Dwelling Unit per Lot, with a minimum Lot size of no less than one (1) acre.

B. **Permissive Uses.** No Building, structure, or land shall be used or occupied except as indicated and for the purposes permitted in this Zone District. The following Permissive Uses are allowed in this Zone District:
   1. Singular Dwellings that are site-built limited to one (1) Dwelling Unit per Lot;
   2. Manufactured Homes limited to one (1) Dwelling Unit per Lot.

C. **Conditional Uses and District Standards.** Conditional Uses and district standards for R-l and R-4 zones are in effect for the R-5 zone.

D. **Prohibited Uses.** The following uses are prohibited in this zone:
   1. The open storage of inoperative Motor Vehicles or auto parts;
   2. The open storage of trash or junk;
   3. The open storage of appliances; and
   4. Any use not designated a permissive or Conditional Use in this zone, unless otherwise authorized by this Ordinance.

SECTION 17. R-E RESIDENTIAL ESTATE ZONE

A. **Intent.** This zone is intended to provide for the establishment of residential areas which are to be developed at low Density, and safeguards and controls for the keeping and maintenance of horses in those areas of the Town where noncommercial equestrian activities may be an integral part of the neighborhood amenities.

B. **Permissive Uses.** No Building, structure, or land shall be used or occupied except as indicated and for the purposes permitted in this Zone District. The following Permissive Uses are allowed in this Zone District:

   1. **Primary Uses.** Single family dwellings.
   2. **Accessory Uses.** The following Buildings structures and uses are permitted when clearly incidental and accessory to the primary permitted use.
      i. Accessory structures, habitable, including Secondary Quarters, and Accessory living quarters.
      ii. Accessory structures, non-habitable, including private garages or carports, garden greenhouses, recreation rooms, pool bathhouses, or private stables and swimming pools.
      iii. Minimum Lot size shall be no less than five (5) acres.
      iv. No stable, shelter or corral shall be located less than thirty-five (35) feet from any dwelling or other Building used for human habitation.

C. **Prohibited Uses**: The following uses are prohibited in this zone:
   1. The open storage of inoperative Motor Vehicles or auto parts;
   2. The open storage of trash or junk;

3. The open storage of appliances; and
4. Any use not designated a permissive or Conditional Use in this zone, unless otherwise authorized by this Ordinance.

SECTION 18. R-R RURAL RESIDENTIAL ZONE

A. Purpose. The purpose of the Rural Residential Zone District is to provide for a design element which includes measures to protect the character of the area by assuring compatibility of development with the surrounding area, protecting surface water and ground water resources; to encourage a harmonious mixture of uses to facilitate the economic provision of streets, utilities, water and sewage disposal; and to preserve the natural environmental and scenic features of the site.

A zone change for the establishment of a Rural Residential Zone may not be approved unless the proposal:

1. Maximizes visibility of Open Space tracts from adjoining collector roads, arterial roads, or state and federal highways through the placement of Lots in the interior of the site and through vegetative buffers; and
2. Placing Buildings and Lots in a manner which does not intrude on the visual character of the landscape, in particular, avoiding placement of houses or Buildings on forested ridgelines or other prominent physical features; and
3. Submittal of a site plan to ensure that siting of Lots and built areas will not interfere with the character of the site.

B. Permissive Uses. No Building, structure, or land shall be used or occupied except as indicated and for the purposes permitted in this Zone District. The uses permitted by right are described in the R-1 and R-E Zone Districts; all uses shall be in full compliance with all other governing regulations and standards for the Town of Edgewood.

C. Pre-Application. Any request for a zone change to establish a Rural Residential Zone shall be initiated through a pre-application conference between the Developer and the Community Planning & Development Department. Ten (10) copies of a preliminary plat shall be submitted to allow the Commission to render a nonbinding opinion.

D. Requirements. Any application for a zone change to establish a Rural Residential Zone must include the required submission fee and the following information:

1. A development zone plan consisting of the following components:
    - **a.** Vicinity map showing the relationship of the site to its general surroundings and topography, floodplains, and other natural features in the area.
    - **b.** A description of existing conditions on and adjacent to the site, including boundary and property lines, roads and easements, public and private utilities, Buildings and structures, and current land use.
    - **c.** A description of the proposed, full build-out development within the Rural Residential Zone, including the type, distribution, and Density of proposed land uses, the major vehicular and pedestrian circulation system, including ~~a traffic impact study on all local roads and intersections within one mile~~ of the proposed site boundaries, a schematic utilities plan, and proposed sites for Common Areas, community facilities, and Conservation Easements.
2. Documentation confirming that the applicant has a legally sufficient interest in

the property proposed for development to use in the manner requested, or is the duly appointed agent of such a Person.

3. Preservation of mature trees, vegetative cover, watercourses and other natural site features shall be viewed positively and abrupt changes in natural slope shall be avoided. Preservation shall be directed toward:
   a. Enhancing the quality of new development;
   b. Protecting the natural environment;
   c. Providing buffering between new development and surrounding properties; and
   d. Agreements and covenants that govern the use, maintenance, and continued protection of the development and its common spaces, shared facilities, and private roads.

E. District Standards. The following land use and performance standards apply to this Zone District unless specifically exempted or modified as a condition of approval of the Rural Residential Zone.

1. The total land area for a Rural Residential Zone shall be more than one hundred (100) acres.
2. All development within the Rural Residential Zone must be served by water and wastewater facilities/utilities.
3. The Commission may require that suitable areas for streets, schools, parks and other public areas be set aside.

   Mini-Parks: The total area contained in mini-parks that have a minimum dimension of 10,000 square feet and that include benches, playground apparatus, barbecue pits, fire rings or other recreational amenities may be counted as common Open Space.

SECTION 19. R-S RESIDENTIAL AND SERVICES ZONE

A. Intent. The purpose of the RS (Residential and Services) Zone is to provide for orderly and compatible development in transitional areas between residential and non-residential districts and to establish and preserve areas for those commercial facilities which are especially useful in close proximity to residential areas.

B. Permitted uses. The following uses are permitted in the R-S Zone.

1. Any use permitted in the R-1 Zone;
2. Retail; Maximum of 3,000 square feet for most uses; 6,000 square feet for multipurpose convenience stores and medical offices.

C. Conditional Uses: The following uses may be permitted within this Zone District upon grant of a permit:

1. Personal services such as, but not limited to, the following (provided the use is conducted within an enclosed Building and materials and equipment are not offered for sale except incidental to the service):
   a. Beauty and barber shops;
   b. Photography;
   c. Educational facilities, not including child care centers;
   d. Tailoring;
   e. Small appliance repair;
2. Day nurseries and nursery schools.

3. Institutions of an educational, religious, charitable or philanthropic nature.
4. Offices wherein only professional, administrative, clerical or sales services are conducted.
5. Private clubs lodges or fraternal organizations operated solely for the benefit of bona fide members (including outdoor recreation or assemble facilities).

D. Prohibited Uses:
1. Sexually-Oriented Businesses.

E. District Standards. The following regulations apply to all land uses in this Zone District:
1. There shall be no Lot size less than one (1) acre excluding right-of-ways.
2. Setbacks shall be maintained as follows:
   a. Front Setback shall be no less than thirty (30) feet;
   b. Side Setback shall be no less than ten (10) feet, except in cases of corner Lots, where the secondary street Side Setback shall be no less than twenty (20) feet; and
   c. Rear Setback shall be no less than ten (10) feet.
3. Off-street parking must be provided in accordance with the requirements set forth herein.
4. Maximum Building Height shall be thirty-six (36) feet.

SECTION 20. MU MIXED-USE ZONE

A. Intent. The purpose of this zone is to accommodate higher-density residential development and limited nonresidential uses which are compatible to the residential character of this district. Detached single family residences and Multiple Dwellings are allowed in this district, and may include apartments, townhouses, and condominiums.

B. Permissive Uses. No Building, structure, or land shall be used or occupied except as indicated and for the purposes permitted in this Zone District.
Any of the following Permissive Uses are allowed in this Zone District:
1. All uses permissive in the R-1 and R-S Zone Districts; and
2. Multiple Dwellings provided above.

C. Conditional Uses. The following uses may be allowed in this Zone District only upon the granting of a permit in accordance with this Ordinance:
1. All uses conditional in the R-l Zone District;
2. Non-commercial library, museum, or art gallery;
3. Medical clinics or dental office;
4. Laundromat;
5. Barber or beauty shop;
6. Educational facilities, not including child care centers.

D. Prohibited Uses: The following uses are prohibited in this zone:
1. The open storage of inoperative Motor Vehicles or auto parts;
2. The open storage of trash or junk;
3. The open storage of appliances; and

Any use not designated a permissive or Conditional Use in this zone, unless otherwise authorized by this Ordinance.

E. District Standards. The following regulations apply to all land uses in this Zone District:

1. Multiple Dwellings are subject to the following restrictions:
   a. The Floor Area Ratio shall not exceed 0.5 on any Lot;
   b. The average Density of the MU zone shall not exceed twelve (12) Dwelling Units per acre; and
   c. The dedication of Open Space is at least fifteen percent (15%), not including roadways, parking lots, or driveways.
2. Setbacks shall be maintained as follows:
   a. Front Setback shall be no less than fifteen (15) feet;
   b. Side Setback shall be no less than ten (10) feet; and
   c. Rear Setback shall be no less than ten (10) feet.
3. Off-street parking must be provided in accordance with the requirements set forth herein.

SECTION 21. C-1 COMMERCIAL ZONE

A. Intent. The purpose of this Zone District is to provide for a commercial area with a wide range of commercial services and employment opportunities in small to large businesses, including offices, business support services, light industrial, retail and mixed residential use.

B. Permissive Uses. No Building, structure, or land shall be used or occupied except as indicated and for the purposes permitted in this Zone District. Any of the following Permissive Uses are allowed in this Zone District:

1. General and professional offices.
2. Retail commercial establishments.
3. Banking and financial services.
4. Restaurants.
5. Small Engine Repair and Service businesses.
6. Assembly.
7. Light Industry.

C. Conditional Uses. The following uses may be allowed in this Zone District only upon the granting of a permit in accordance with this Ordinance.

1. All uses permissive in the R-1 and R-3 Zone District;
2. Motor Vehicle sales and services, provided that:
   a. Any repair work shall be conducted entirely within an enclosed Building;
   b. Outdoor storage of materials shall be enclosed by a sufficient visual barrier.
3. Kennel, veterinary hospital, animal grooming parlor, or pet sales store; and
4. Small scale processing associated with a commercial business establishment provided that all processing activities are conducted within a Building and shall not produce off site impacts, which would be disruptive to contiguous properties. Examples of small scale processing include but are not limited to harvesting, transportation, size reduction, preservation, fermentation, assembly, handling, organizing, and storage of products grown or developed on-site.

5. Indoor cinemas designed so that noise generated by the use is not perceptible at the property boundary line. Permissible indoor cinemas shall not include any type of sexually oriented business.
6. Child care centers.

D. District Standards. The Following regulations apply to all land uses in this Zone District:

1. Minimum Lot size, one (1) acre.
2. Setbacks shall be maintained as follows:
   a. Front Setback shall be no less than twenty (20) feet;
   b. Rear Setback shall be no less than fifteen (15) feet; and
   c. Side Setback shall be no less than twenty-five (25) feet.
3. Off-street parking space must be provided in accordance with the requirements set forth herein.
4. Maximum Building Height shall be thirty-six feet (36').
5. Commercial/retail Buildings shall not exceed 35,000 square feet.
6. Developments must be in compliance with the landscaping ordinance.

SECTION 22. C-2 COMMERCIAL BUSINESS ZONE

A. Intent. The purpose of this Zone District is to provide for the commercial and business needs of the community. This Zone District includes highway related commercial activities, office and entertainment facilities, retail sales, and service providers. Development in this Zone District shall not be detrimental to nearby residential uses.

B. Permissive Uses. No Building, structure, or land shall be used or occupied except as indicated and for the purposes permitted in this Zone District. Any of the following Permissive Uses are allowed in this Zone District:

1. All uses permissive in the R-1 and R-3 Zone District;
2. Retail commercial establishments;
3. General and professional offices;
4. Business and personal services;
5. Banking and financial services;
6. Model home centers for Manufactured Homes or site built houses, and having less than four (4) units on-site;
7. Restaurants;
8. Small Engine Repair and Service businesses;
9. Child care centers;
10. Hotels and motels;
11. Bars, Lounges & package sales;
12. Motor Vehicle sales and services, including commercial garages, provided that:
    a. Any repair work shall be conducted entirely within an enclosed Building;
    b. Outdoor storage of materials shall be enclosed by a sufficient visual barrier.
13. Veterinary hospital, animal grooming parlor, or pet sales store;
14. Small scale processing associated with a commercial business establishment provided that all processing activities are conducted within a Building and shall not produce off site impacts, which would be disruptive to contiguous properties. Examples of small scale processing include but are not limited to harvesting, transportation, size reduction, preservation, fermentation, assembly, handling,

organizing, and storage of products grown or developed on-site;

15. Assembly;
16. Light Industry; and
17. Sexually-Oriented Businesses (East of V-Hill Rd. and Williams Ranch Rd.).

C. Conditional Uses. The following uses may be allowed in this Zone District only upon the granting of a permit in accordance with this Ordinance:

1. All uses conditional in the R-1 and R-3 Zone District.
2. Kennels.
3. Model home centers for Manufactured Homes or site built homes, and having four (4) or more units on-site.
4. Recreational Vehicle Campgrounds, provided that they fully comply with all State requirements regarding water, liquid waste, electricity, gas, and telephone service and:
    a. A minimum of two (2) vehicular entrances shall be provided, one (1) entrance of which may be kept closed to the general public if provision is made for emergency access.
    b. Each Recreational Vehicle space shall have an area of not less than two thousand (2000) square feet and a width of not less than twenty-five (25) feet.
    c. All Recreational Vehicle spaces shall be connected to an approved sewage disposal facility.
    d. All utility lines shall be placed underground within a park. Each park space shall be provided with water, electric, telephone and gas lines, if needed. An approved fire protection system shall be installed by the Developer.
    e. The total area set aside for recreation shall not be less than ten percent (10%) of the area within the recreational park and one (1) or more recreational areas, having not less than three thousand (3,000) square feet in area, shall be set aside within such parks.
    f. The Recreational Vehicle park shall be screened in an attractive manner from surrounding Lots by a solid fence, wall or suitable planting as per the Landscape Ordinance requirements.
    g. A minimum of one (1) off-street parking space shall be provided for each Recreational Vehicle. Parking spaces shall be surfaced with dust-free materials. Guest parking shall be provided at a ratio of one (1) parking space for each five
    (5) Recreational Vehicle spaces.
    h. No Recreational Vehicle spaces shall be occupied unless and until a minimum of thirty percent (30%) of the total planned [or ten (10) spaces, whichever is greater] shall have been completely prepared and equipped for use in all respects, including drives and community facilities.
    i. The minimum distance from any portion of a Recreational Vehicle located on the Recreational Vehicle Campground or its Accessory structures from the following lines shall be as follows:
        1. Front & rear space line: ten (10) feet from the nearest edge of an interior drive or roadway.
        2. From an exterior boundary of the park abutting public streets: twenty (20) feet; from all other exterior park boundaries: ten (10) feet.

3. From another Recreational Vehicle or Accessory structure on an adjoining Recreational Vehicle space: twenty (20) feet.
4. The placement/parking of Mobile Homes and/or Manufactured Homes on Recreational Vehicle spaces is prohibited.

5. Any commercial retail establishments, which require outdoor storage of stock and/or materials. Outdoor storage of stock and/or materials shall provide visual screening.
6. Entertainment Facilities, indoor commercial entertainment establishments including but not limited to cinema, theater, and concert hall.
7. Recreation facilities including bowling alley, indoor/outdoor tennis courts, public recreation Building, health club. Such recreation facilities shall only be allowed if they are located in or attached to structures containing other principal uses. These uses shall be located in a Building that is treated acoustically so that noise generated by the use is not perceptible at the property boundary line. Permissible recreation facilities shall not includeany type of sexually oriented business.

D. District Standards. The following regulations apply to all land uses in this Zone District:

1. There shall be no minimum Lot size, provided that land uses are in conformance with the provisions of this Ordinance.
2. Setbacks shall be maintained as follows:
   a. Front Setback shall be no less than twenty (20) feet;
   b. Rear Setback shall be no less than fifteen (15) feet; and
   c. Side Setback shall be no less than twenty-five (25) feet.
3. Off-street parking must be provided in accordance with the requirements set forth herein.
4. Maximum Building Height shall be thirty-six (36) feet.
5. Commercial developments must be in compliance with the Landscape Ordinance adopted by the Town.
6. Temporary Offices: A mobile office unit may be used to house temporary offices, provided that the following conditions are met:
   a. The proposed office use and location conform to the Town zoning regulations.
   b. Any such mobile office unit has documentation certifying that it has been manufactured in accordance with nationally recognized standards.
   c. Any such unit shall be provided with fire protection water supply, fire hydrants and fire department access as specified in the uniform fire code.
   d. Any such mobile office unit complies with ADA handicapped accessibility.
   e. Any such unit shall be limited to use as a temporary office for a period of one (1) year from the date of the certificate of inspection, after which time the mobile office shall be removed from the site unless the mobile office is deemed to conform to all city regulations for a permanent structure with all applicable state permits issued.

SECTION 23. IP-INDUSTRIAL PLAN ZONE

A. Purpose. This zone provides suitable sites for a wide range of industrial and commercial uses, provided such uses are conducted in a compatible and harmonious manner within industrial environments achieved through a Development Plan.

B. Permissive Uses: No Building, structure, or land shall be used or occupied except as

indicated and for the purposes permitted in this Zone District. The following uses are permitted:

1. Institution, including hospitals and medical centers, libraries, museums, and schools and institutions of higher education.
2. Laboratory-experimental, including testing and/or medical, provided all activities are conducted within a completely enclosed Building. Noxious fumes, odor, or dust shall not be emitted from the premises.
3. Manufacturing, assembling, treating, repairing, or reBuilding articles except those conditional or otherwise limited in this zone.
4. Office machine equipment sales and repair.
5. Printing, publishing, lithographing, blueprinting, and/or photostatting.
6. Public utility use or structure.
7. Retail sales of the following goods, plus incidental retailing of related goods and incidental service or repair:
   a. Books, magazines, newspapers.
   b. Cosmetics, notions, gifts.
   c. Flowers and plants.
   d. Food and drink, for consumption on premises.
   e. Gasoline, oil, liquefied petroleum gas.
8. Sales and display rooms or Buildings for wholesalers, distributors, warehouses, and/or manufacturers.
9. Services, including but not limited to:
   a. Automobile repairing, but no body work; repairing shall be done within a completely enclosed Building at least twenty (20) feet from any zone boundary;
   b. Financial Services;
   c. Barber, beauty;
   d. Child care center; and
   e. Dry cleaning, laundry.

C. Size. Minimum Lot Area shall be one (1) acre. Minimum Lot width shall be no less than 100 feet. No more than fifty percent (50%) of the surface of any Lot or site shall be covered with Buildings.

D. Setback:

1. There shall be a front yard Setback of not less than fifty (50) feet.
2. There shall be a side yard Setback of not less than twenty-five (25) feet.
3. There shall be a rear yard Setback of not less than twenty-five (25) feet.

E. Outside Storage. All outdoor storage and trash collection areas shall have covers and be visually screened from all property lines by a solid wall or fence or by an evergreen hedge at least six (6) feet high.

F. General Requirements:

1. **Minimum Zone size**. The minimum total contiguous area eligible for an IP zone designation is forty (40) acres.
2. **Plat Required**. A plat meeting the requirements of the Subdivision Ordinance must be submitted for any property for which an IP designation is requested for simultaneous consideration by the Planning & Zoning Commission with the zone change request.

3. **Development Plan**. A development plan showing the general layout of the proposed industrial park, including approximate locations of streets, Building locations, utility easements, parking lots, landscaping and Open Space and storage areas must be submitted and approved with an application for a change to IP zoning.

G. Prohibited Uses: The following uses are prohibited in this zone:

1. The open storage of inoperative Motor Vehicles or auto parts;
2. The open storage of trash or junk;
3. The open storage of appliances; and
4. Any use not designated in this zone, unless otherwise authorized by this code.

SECTION 24. MP-MASTER PLAN ZONE

A. Purpose. The purpose of the Master Plan Zone District is to provide for the unified planning of large areas in order to achieve the distribution and variety of land uses which large-scale planning makes possible; to encourage a harmonious and appropriate mixture of uses; to facilitate the economic provision of streets, utilities and water and sewage disposal; and to preserve the natural environmental and scenic features of the site. Master Plan Zoning is not intended to encourage higher densities of residential development but rather to allow greater flexibility in planning and design, at densities consistent with the immediately adjacent neighborhoods.

A zone change for the establishment of a Master Plan Zone District may not be approved unless the proposal:

1. Is beneficial to the public health, safety, or general welfare of the Town of Edgewood.
2. Provides design guidelines minimizing congestion of the streets and public ways.
3. Enhances the appearance of neighborhoods by conserving areas of natural beauty, and natural green spaces.
4. Buffers differing types of land use and intensities of development from each other so as to minimize any adverse impact which the proposed plan may have on existing development.
5. Protects the integrity and character of the area and the utility and value of the property and the contiguous zoning districts.
6. Complies with the purpose and intent set forth in the Comprehensive Plan. The Comprehensive Plan's Future Land Use Plan shall be used as a guide in determining the location of appropriate uses for this Zone District.
7. Includes provisions to provide water sufficient to meet the requirements of the 1997 Uniform Fire Code.

B. Permissive Uses. No Building, structure, or land shall be used or occupied except as indicated and for the purposes permitted in this Zone District. The uses permitted by right are described in the R-1, R-3, R-4, R-E, R-R, R-S, M-U and S-U Zone Districts. All uses shall be in full compliance with all other governing regulations and standards for the Town of Edgewood.

C. Conditional Uses. The uses allowed upon obtaining a Conditional Use permit are described in the R-l, R- 2, R-3, R-4, R-E, R-R, R-S, M-P and S-U Zone Districts. All uses shall be in full compliance with all other governing regulations and standards for the Town of Edgewood.

D. Pre-Application. Any request for a zone change to establish a Master Plan Zone shall be initiated by the Developer through a pre-application conference with the Planning & Zoning Commission. Six (6) copies of a preliminary plan shall be submitted to allow the Commission to render a nonbinding opinion. This basic development zone plan shall include property maps, site plans, architectural plans and other drawings as relevant, in sufficient detail to show the existing conditions and improvements proposed to be erected on the site, the Open Spaces to be provided, the nature and location of the proposed internal zone boundaries, and the relationship of the proposed development to surrounding properties and infrastructure.

E. Master Plan Requirements. Any application for a zone change to establish a Master Plan Zone must include the required submission fee and the following information:

1. A development zone plan consisting of the following components:
    - **a.** Vicinity map showing the relationship of the site to its general surroundings and topography, floodplains, and other natural features in the area.
    - **b.** A description of existing conditions on and adjacent to the site, including boundary and property lines, roads and easements, public and private utilities, Buildings and structures, and current land use.
    - **c.** A description of the proposed, full build-out development within the Master Plan Zone, including the type, distribution, and Density of proposed land uses, the major vehicular and pedestrian circulation system; including a traffic impact study on all local roads and intersections within one (1) mile of the proposed site boundaries; a schematic utilities plan, and proposed sites for Common Areas, community facilities, and Conservation Easements.
    - **d.** A work sheet demonstrating how average Density shall be achieved.
2. A preliminary water supply plan and liquid waste disposal plan. This analysis will identify one or more sources of water to supply the proposed development, i.e. County or other utility, wells, water rights transfers, point of diversion, etc. The analysis will also include estimated water budget (demand) by phase, total demand at full build-out, including commercial uses, if applicable, and a water conservation plan.
3. A phasing schedule which provides a description of each phase of the development over time. Each phase of development shall be subject to a separate and final approval of the Commission as part of the subdivision plat review process or as a detailed site plan prior to construction.
4. Includes a minimum of fifteen percent (15)% of the gross area as permanent Open Space or natural Open Space; which may include landscaped green space, parks, playgrounds, trails and land areas in their natural state. Permanent Open Space shall not include commercial development areas, streets, or roadways. Golf courses may be considered if designed in accordance with standards developed by Audubon International.
5. A written statement regarding the protection of cultural properties, archaeological sites, and unmarked human burials, with reference to the New Mexico Cultural Properties Protection Act (18-6A-1 et seq. NMSA 1978), as it may be amended from time to time.

6. For proposed Master Plan Zones in excess of 160 acres, a written statement regarding the anticipated impact of the Master Plan Zone on the surrounding community with respect to, storm water runoff, and population growth with specific reference to schools and highways.
7. Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use in the manner requested, or a verification under oath confirming that the applicant is the duly appointed agent of such a Person.
8. The Master Plan shall be harmonious and not conflict with surrounding neighborhoods. It shall be planned, designed and constructed so as to minimize undue traffic congestion in the surrounding area and provide a compatible land-use relationship with the surrounding area, making use of landscaping, screening, Open Space and the placement of Buildings where appropriate in accordance with accepted land-use planning and design principles.
9. Preservation of mature trees, vegetative cover, watercourses and other natural site features shall be preserved to the greatest extent possible. Abrupt changes in natural slope shall be avoided. Preservation shall be directed toward:
    a. Enhancing the quality of new development;
    b. Protecting the natural environment;
    c. Providing buffering between new development and surrounding properties; and
    d. Agreements and covenants that govern the use, maintenance, and continued protection of the development and its common spaces, shared facilities, and private roads.

F. District Standards. The following land use and performance standards apply to this Zone District unless specifically exempted or modified as a condition of approval of the Master Plan Zone.

1. The total land area for a Master Plan Zone shall be a minimum of ten (10) acres.
2. All development within the Master Plan Zone must be served by water and wastewater facilities/utilities.
3. The Commission may recommend that land for schools, parks and other public areas be set aside.
4. The Commission may recommend that an adequate circulation system and streets are included in each development.
5. A minimum of three percent (3%) of the gross area of every development zone containing ten (10) or more Dwelling Units shall be devoted to common Open Space for the use and enjoyment of the residents. The following areas qualify wholly or partially as common Open Space:
    a. Pedestrian Open Space System: The total area contained in a continuous Open Space pedestrian system, not less than fifteen (15) feet wide, consisting of permanently maintained walks and trails leading to a natural amenity, recreation facility or commercial use, offering intra development circulation that is separate and apart from roads and streets may be counted as common Open Space.
    b. Mini-Parks: The total area contained in mini-parks that have a minimum dimension of 10,000 square feet and that include benches, playground apparatus, barbecue pits, fire rings or other recreational amenities may be

counted as common Open Space.

6. Average Density for a Master Plan shall not exceed 1-Dwelling Unit/1-acre. Maximum overall Density shall be computed by dividing the residential acreage by the total number of Dwelling Units to equal the average Density.
7. Residential acreage is the aggregate area comprised of residential Lots.
8. Non-residential land uses proposed for the Master Plan Zone shall be limited to a Floor Area Ratio of 0.35 within a delineated sector of the Master Plan Zone.
9. The fifteen percent (15%) Open Space set aside shall be protected from future sale and housing or commercial development. A signed development agreement, approved by the Planning & Zoning Commission, shall be recorded as a deed restriction upon the property. Said agreement shall be binding to all future Developers and property owners of said development, including the provision of homeowners' associations and/or other methods of preserving development standards and maintenance of facilities and landscape.
10. No Lot in the Master Plan Zone shall be less than one fourth (¼) of an acre.
11. No use of land in the Master Plan Zone shall be commenced except as indicated on the development plan as required by this Section. Any land use that is not indicated on the approved development plan shall require an amendment to the Master Plan Zone.
12. Amendments
    a. Approval of the Master Plan document is intended to demonstrate that the development concept is acceptable and that further approvals are likely unless the detailed development plans cannot meet the requirements of applicable law and Town ordinances in effect at that time.
    b. Any change in land use or any increase in Density or intensity of development in the approved Master Plan requires approval by the Planning & Zoning Commission during a public hearing.

SECTION 25. SU-SPECIAL USE

A. **Intent**. This Zone District provides for types of development, which require special consideration because of their magnitude, unusual nature, infrequent operations, questionable impact on surrounding property, or other similar reason. The boundaries of this Zone District shall be defined as needed on a case-by-case basis and shall be designated by the Town governing body following the amendment procedures provided in this Ordinance.

Special conditions may be imposed by the Town governing body giving consideration to any recommendation of the Planning & Zoning Commission. The Town governing body may not grant a zone change for the establishment of a Special Use Zone District unless satisfactory provisions have been made:

1. To assure that a compatibility of land uses is maintained in the general area and that the proposed use is not in conflict with the development policies and other elements of the Comprehensive Plan for the Town of Edgewood;
2. To preserve the integrity and character of the area in which the Special Use Zone District will be located, and to preserve the utility of property in contiguous Zone Districts; and
3. To assure that the Special Use Zone will not become detrimental to the public health, safety, or general welfare of the Town of Edgewood.

B. Plan Requirement. Each application for a Special Use Zone must declare the proposed use for the Zone District and must be accompanied by a site development plan as specified by this Ordinance.

C. Removal of Zones. In the event that a use authorized as a Special Use Zone is permanently discontinued for a period of at least 90 days, the Special Use Zone District may be canceled and removed under the provisions for an amendment to this Ordinance. That area delineated by a discontinued Special Use Zone District shall be rezoned to an appropriate Zone District as determined by the Town governing body following a recommendation by the Planning & Zoning Commission.

D. Designated Uses. A Special Use Zone District may be established only for the following uses designated by the Town governing body.

1. Fairgrounds, recreational complex, stadium;
2. Fuel wholesalers and storage (e. g., gasoline and other petroleum products) provided that all facilities shall be placed a minimum of three hundred (300) feet from any residential structure unless sufficient blast, explosion, or fire confinement structures are installed in accordance with State Regulations;
3. Government facilities;
4. Manufacturing, compounding, assembling or treatment of products which are made from raw or processed materials in accordance with State or Federal environmental pollution standards;
5. Mobile Home Park, subject to the following regulations:
   General Requirements: No Mobile Home shall be installed or placed upon a Mobile Home Lot unless such Mobile Home bears a label or has equivalent documentation certifying that the Mobile Home was constructed in accordance with the Federal Manufactured Home Construction and Safety Standards Act of 1974, or NFPA 501, ANSI 119.1 or equivalent.
   - **a.** Every Mobile Home Park owner shall designate a person to act as manager of the park for the purpose of providing supervision of such Mobile Home Park. Such manager shall be accessible to park residents and the public during reasonable and convenient times. An emergency telephone number shall be posted in a conspicuous location near the park entrance or on-site manager's office.
   - **b.** A solid perimeter wall or fence at least six (6) feet high shall enclose the entire area containing the Mobile Home Park in order to provide controlled access to the premises. The wall or fence shall be constructed with materials and design elements that are compatible with the neighborhood character. Limited use of materials such as wrought iron may be permitted where berming and/or landscape planting provide effective screening of the Mobile Home Park.
   - **c.** A Mobile Home Park shall be permitted only when served by a State approved sewer and water supply system. Within each Mobile Home Park, all utility lines from the home to the source, including electricity and telephone lines, shall be placed under ground.
   - **d.** Maximum Density shall be four (4) Mobile Homes per acre;
   - **e.** Each Mobile Home shall be situated on a space that is no less than 5,000 square feet.
   - **f.** At least two (2) off-street parking spaces per Mobile Home are required;

g. No Mobile Home shall be located less than twenty (20) feet of any other Mobile Home or structure. A Mobile Home shall not front on a public street and shall be no less than ten (10) feet from any property line of the Mobile Home Park;

h. A Common Area for recreational use by park residents shall be developed and situated in a central location within the Mobile Home Park. Each Mobile Home Park shall provide a minimum of 500 square feet per Mobile Home Lot. This Common Area shall not be less than 4,000 square feet and must be fifty percent (50%) improved when the park reaches fifty percent (50%) completion and seventy-five percent (75%) improved when the park reaches seventy-five percent (75%) completion.

i. A system of walkways shall be provided connecting individual Mobile Home spaces with park streets and all community facilities provided for the park residents. These walkways shall be located so as to minimize conflicts between pedestrian and vehicular traffic. Walkways, may count as part of the recreation area.

j. The main entrance to a Mobile Home Park shall consist of two(2) ten-foot travel lanes for ingress and two (2) ten-foot travel lanes for egress, separated by a landscaped median a minimum of ten (10) feet in width. This entrance will extend to the intersection with the first cross street that connects with the park's internal circulation network. If a twenty (20) foot wide secondary access is provided, the main access may be reduced to not less than a twenty-four (24) foot wide undivided access.

k. All streets shall be constructed in accordance with the Town's design standards.

l. The appropriate county fire chief may designate certain internal streets within the park as fire lanes. Fire hydrants shall meet spacing and flow requirements of any fire code adopted by the Town of Edgewood or the appropriate county.

m. The Mobile Home shall have an operable, approved smoke detector installed adjacent to sleeping rooms as prescribed by the uniform fire code.

n. The Mobile Home shall be equipped with two (2) operational exit doors.

o. All electrical wiring and distribution equipment within the Mobile Home shall be in safe working condition, and shall conform to nationally recognized standards which were applicable at the time of the construction of said Mobile Home.

p. Outdoor Trash Storage. All outside trash storage and collection facilities shall be enclosed by a solid masonry or view-obscuring fence at least one (1) foot higher than the trash container.

q. A site plan shall be submitted which indicates how the standards listed in this section are addressed.

r. Landscaping shall be provided in compliance with the Landscape Ordinance. A minimum twenty-five (25) foot buffer zone shall be provided in compliance with the aforementioned Ordinance where a Mobile Home Park abuts a public street or residential zoning district.

s. A stand shall be provided on every Mobile Home Lot to accommodate the home and attached Accessory structures. Installation shall be in

accordance with state standards.

t. Each Mobile Home Lot shall be assigned an address by the appropriate county.

u. Storage of boats, campers and Recreational Vehicles or other materials shall be within enclosed Buildings unless an area has been set aside on the plans for this use. Storage Lots must be effectively screened so that stored items will not be readily visible from any public right of way or adjoining properties.

v. The sale or lease of Lots or parcels for temporary Dwelling Units such as, but not limited to, travel trailers, campers, and Recreational Vehicles are prohibited.

6. Self-storage mini warehouses provided that:

a. All storage space is within completely enclosed single story Buildings not to exceed twelve (12) feet in height;

b. A solid perimeter wall or fence at least six (6) feet high shall enclose the entire area containing the storage Buildings in order to provide controlled access to the premises. The wall or fence shall be constructed with materials and design elements that are compatible with the neighborhood character. Limited use of materials such as wrought iron may be permitted where berming and/or landscape planting provide effective screening of the storage facilities.

c. Rental unit door openings shall face toward the interior of the development; except that outward orientation may be allowed if can be demonstrated that the adjoining land use is such that it will not be impacted.

d. The site shall not exceed two (2) acres in size; and

e. There shall be on site driveways to accommodate vehicular access to individual storage units.

f. It is prohibited to use storage units as living quarters. A manager's office for residential use may be established.

g. Buildings shall have architectural design treatment on all sides. The architectural style shall be compatible with the predominant area land uses.

h. In adjacent residential areas Buildings shall have residential design elements and roof pitch that are compatible with adjacent residential development. Building Height shall not exceed eighteen (18) feet.

i. In adjacent residential areas the hours of operation may be restricted to minimize the impact on adjoining properties.

7. Commercial wireless communication facilities;

8. Churches;

9. Educational facilities, not including child care centers;

10. Multi-family residential properties, including any use consisting of two (2) or more dwellings and which is not otherwise provided for in a Zone District set forth herein; and

11. Airports and airparks.

SECTION 26. PERFORMANCE-BASED SETBACKS

As an alternative to the setback requirements set forth in this Ordinance as the standard for each Zone District, performance-based setback requirements may be requested. Any

subdivider/Developer requesting a performance-based standard must provide to the Commission a proposal which identifies the district setback standards, sets forth the alternative performance-based setbacks requested, and clearly demonstrates that the requested standards do not impair the public health, welfare, or safety, and does not undermine the intent of this Ordinance. No performance-based standard will be granted which negatively impacts the public health, welfare, or safety, or which is inconsistent with the intent of this Ordinance.

SECTION 27. WELLHEAD PROTECTION ZONE

A. Intent. Plan Requirement. Submittal of a site development plan is required on all applications for a zone change to establish a Special Use Zone District. A site development statement shall be included with the plan in written form to explain the purpose and intent of the development and a development-phasing schedule if appropriate. Site plans may also be required for certain other uses as specified in this Ordinance.

B. Plan Content. A site development plan shall be of sufficient size and scale in order to:

1. Delineate boundaries and topography of the property to be developed;
2. Show the proposed size, location, use, and arrangement of all structures, signs, parking and loading areas, drainage facilities, landscaping, and traffic and pedestrian circulation routes;
3. Delineate proposed dedications and easements for public rights-of-way; and
4. Indicate the location, type, use and size of structures on adjacent properties that are less than one hundred (100) feet from the property to be developed.

C. Lot Requirements. No structure shall be constructed, created or placed and no land use commenced without being in conformance with the Lot requirements provided herein. Lot requirements shall include the following:

1. Minimum Lot size;
2. Floor Area Ratio; and
3. Maximum height of structures.

D. Intent. This Section is intended to provide supplemental land use and development regulations in an area designated to protect the groundwater source of community water supply wells from Contamination originating from human activities. Specifically, regulations shall be imposed on the surface and subsurface area surrounding a community water supply well, through which contaminants are likely to move toward and reach such water well.

E. Designation of Overlay Zone. The designation of one or more Wellhead Protection Overlay Zones is hereby established under the following criteria:

1. A Wellhead Protection Overlay Zone shall be delineated as a geographic area within a 1,000 foot radius around each "public water supply source", as recommended and defined by the New Mexico Environment Department in the State Wellhead Protection Program.
2. An alternative delineation of a Wellhead Protection Overlay Zone may be used, provided it is based on an acceptable hydrogeologic evaluation and a validated groundwater flow model.
3. Interpretation regarding whether any particular property is within or outside of any

Wellhead Protection Overlay Zone shall be determined by the Council.

4. Wellhead Protection Overlay Zones shall be delineated on the Town of Edgewood map, and shall be available for public inspection at the Town offices.
5. In the event that a Wellhead Protection Overlay Zone lies partially or wholly outside the municipal corporate limits, extraterritorial jurisdiction shall be imposed as authorized by Section 3-27-3 NMSA 1978. Intergovernmental arrangements with another governmental entity, within whose jurisdiction lies the Wellhead Protection Overlay Zone, may be executed through a Joint Powers Agreement as authorized by Sections 11- 1-1 to 11-1-7 NMSA 1978, for purposes of coordinated planning and administration of this Section.

F. Conditional Uses. All non-residential land use activities and residential uses with on-site liquid waste disposal systems located within the Wellhead Protection Overlay Zone shall be Conditional Uses, subject to review and approval by the Council. A Conditional Use Permit must be obtained from the Town of Edgewood and may be either permanent or renewable, depending upon the requirements and procedures for Conditional Uses as specified by this Ordinance.

G. Prohibited Uses. The following uses shall not be allowed within Wellhead Protection Overlay Zones:

1. Solid waste disposal, including transfer stations;
2. Underground Storage Tanks;
3. Uncontained storage of road salt or other de-icing materials;
4. Industrial uses which discharge contact-type process waters on-site;
5. Commercial animal feedlots;
6. Mining activities, including sand and gravel excavation;
7. Automotive fueling, maintenance, repair, and salvage activities;
8. Collection, storage, processing, or disposal of Hazardous Materials;
9. Commercial septage disposal sites;
10. Liquid petroleum product pipelines;
11. Trucking and bus terminals; and
12. Airports and heliports.

H. Nonconforming Uses. Any use declared as a prohibited use by this Section, and which existed prior to the effective date of this Section, may continue as a Nonconforming Use in accordance with this Ordinance unless the Council finds at any time that the use is an imminent danger to the public health, safety, and welfare. In such cases, that use must be brought into immediate conformance with this Section in a manner determined by the Council.

I. Amortization of Prohibited Nonconforming Uses. Prohibited Nonconforming Uses pose significant threats to groundwater within the Wellhead Protection Overlay Zone. A time limit, or amortization period, shall be imposed upon certain prohibited Nonconforming Uses located less than 500 feet from the Wellhead, after which such Nonconforming Use must be discontinued or substantially modified in order to conform to the regulations provided herein. Substantial modification shall be supported by scientifically based studies from a qualified source.

The following prohibited Nonconforming Uses located more than 500 feet of the Wellhead

shall be discontinued or substantially modified within two (2) years after the effective date of this Section:

1. Solid waste disposal, including transfer stations;
2. Uncontained storage of road salt or other de-icing materials;
3. Commercial animal feedlots;
4. Mining activities, including sand and gravel excavation;
5. Collection, storage, processing, or disposal of Hazardous Materials; and
6. Commercial septage disposal sites.

The following prohibited Nonconforming Uses located more than 500 feet of the Wellhead shall be discontinued or substantially modified within four (4) years after the effective date of this Section:

1. Underground Storage Tanks;
2. Industrial uses which discharge contact-type process waters on-site;
3. Automotive fueling, maintenance, repair, and salvage activities, and
4. Trucking and bus terminals.

J. Special Conditions. The following conditions apply to all uses within the Wellhead Protection Overlay Zone;

1. In addition to the prohibitions set forth in this Section, any use involving a discharge to groundwater is not allowed in this Zone unless the discharge is demonstrated to cause no Contamination of the receiving groundwater.
2. On-site liquid waste disposal systems may be subject to periodic inspection to determine compliance with the New Mexico Liquid Waste Disposal Regulations.
3. Use of pesticides, herbicides, fertilizers, manures, and other potentially dangerous leachable substances shall be minimized, and bulk storage of these substances shall be prohibited.
4. The minimum Lot size for any use with an on-site liquid waste disposal system shall be one (1) acre.
5. Proposals for non-residential development in this zone shall include a site plan indicating;
   a. any subsurface disposal of waste material;
   b. proposed earth moving operations, which alter slope or composition of soil;
   c. proposed methods of conveying water from paved surfaces; and
   d. any proposed diversion of surface or groundwater.
6. Every Abandoned Well shall be filled and plugged with such materials and in such manner to prevent Contamination from entering the groundwater through the Abandoned Well.

K. Administration. Primary responsibility for administering this Section shall be assigned to the Planning & Zoning Official, who may be assisted by other municipal employees as appropriate. The following duties shall be performed by the Planning & Zoning Official within the Wellhead Protection Overlay Zone:

1. Maintain a special file for those Conditional Uses within the Wellhead Protection Overlay Zone;
2. Maintain a map-based inventory of all land use activities including septic tanks, Underground Storage Tanks, and all water wells, public and private, active and abandoned, within the Wellhead Protection Overlay Zone;
3. Conduct on-site inspections as necessary to enforce the provisions of this Section;

4. Develop and maintain a contingency plan for the provision of alternate drinking water supplies in the event of Contamination at a municipal water supply well; and
5. Prepare and present an annual report to the Council for the purpose of summarizing the status of land use activities within a Wellhead Protection Overlay Zone and any actions taken, or in progress, by the Town of Edgewood in carrying out the provisions of this Section. Following acceptance of such annual report by the Council, a copy of such annual report shall be transmitted to the appropriate staff of the New Mexico Environment Department.

SECTION 28. FLOOD PROTECTION OVERLAY ZONE

A. Intent. The Flood Protection Overlay Zone supports regulations designed to reduce flood losses within areas of special flood hazard identified by the Federal Emergency Management Agency.

B. Boundaries. The boundaries of the Flood Protection Overlay Zone shall be shown on the TOWN OF EDGEWOOD ZONING MAP and shall substantially conform to the "Special Flood Hazard Areas Inundated by 100 Year Flood" as designated by the Federal Emergency Management Agency pursuant to the National Flood Insurance Program. The Flood Protection Overlay Zone may be revised through the amendment procedures in this Ordinance.

C. Conditional Use. All uses within this Overlay Zone shall be Conditional Uses requiring a permit and subject to the Conditional Use procedures in this Ordinance.

D. Special Standards. All new construction and substantial improvements within the Flood Protection Overlay Zone shall comply with applicable standards imposed by the Town of Edgewood concerning Flood Damage Prevention.

SECTION 29. OFF STREET PARKING

A. Off-Street Parking Requirements. Whenever any new Building or structure is erected, Off Street Parking spaces shall be provided on the premises in accordance with this Ordinance. Existing Buildings or structures need to supply the required Off Street Parking spaces only to the extent that Open Space is available on the premises. Parking spaces may be located on any portion of the Lot but shall not obstruct on site circulation or access to the premises. Unless authorized by the Town of Edgewood, parking is not allowed within the public right-of-way.

B. Required Parking Spaces. The minimum number of off-street parking spaces to be provided on premises shall be as follows:

1. Banks, offices, service establishments, and retail businesses require one (1) space per 200 square feet of Floor Area;
2. Bowling alleys require four (4) spaces per alley;
3. Clubs, lodges, and fraternal organizations require one (1) space per 100 square feet of Floor Area;
4. Restaurants, bars, and Lounges require one (1) space per 100 square feet of Floor Area;
5. Industrial, manufacturing, and wholesaling establishments require one (1) space per two (2) employees on the largest shift;

6. Laundromats require one (1) space per three (3) washing machines;
7. Medical clinics and dental offices require five (5) spaces per doctor;
8. Motels and other lodging facilities require one (1) space per unit and one (1) space per two (2) employees on the largest shift.
9. Places of public assembly, including churches, community centers, theaters, and gymnasiums require one (1) space per four (4) seats when fully occupied; and
10. Residential Buildings and Manufactured Homes require two (2) spaces per Dwelling Unit, except in the R-1 & R-4 Zones.

C. Mixed Uses. For mixed uses on the premises, the total requirements for Off Street Parking spaces shall be the sum of the fractional requirements of the various uses computed separately.

D. Parking Design Standards.
The following standards shall be applied:

1. All off-street automobile parking facilities shall be designed with appropriate means of vehicular access to a street, alley or public thoroughfare, as well as necessary maneuvering areas such as driveways. Whenever possible, the parking facility shall be designed so that vehicles exiting therefrom will not be required to back into any street. Maneuvering areas adjacent to parking spaces shall be designed so as not to disrupt traffic on public roadways.
2. All driveway entrances shall be at least thirty (30) feet wide to facilitate vehicular turning into the parking area;
3. Each parking space shall consist of an area not less than eight (8) feet by twenty (20) feet;
4. All parking areas shall be screened from adjacent streets with walls, earth berms, or landscaping that creates a screening effect, a minimum of 36 inches in height.

E. Parking Spaces Designated for Disabled Persons: For nonresidential uses and for multiple- family uses with common parking areas, parking lots shall provide the following minimum number of parking spaces designated for disabled persons.

Total Spaces in Parking Lot	Minimum Number of Parking Spaces for Disabled Persons
1 to 25	1
26 to 36	2
36 to 50	3
51 to 100	4
101 to 300	8
301 to 500	12
501 to 800	16
801 to 1,000	20
More than 1,000	20, plus 1 for each 100 over 1,000

The designated disabled parking spaces shall be located so as to provide the most convenient access to entrance ways or to the nearest curb cut. Every parking lot shall have at least one designated disabled parking space designated to accommodate a Motor Vehicle passenger van, and there shall be a minimum of one such space for every eight designated disabled parking spaces.

SECTION 30. OUTDOOR LIGHTING

A. Purpose. The purpose of this section is to regulate outdoor lighting in order to: reduce light pollution; reduce or prevent glare; reduce or prevent light trespass; conserve energy; promote a sense of safety and security; and ensure aesthetically appropriate outdoor lighting.

B. Applicability and General Provisions

1. All outdoor lighting fixtures, regardless of whether such fixtures are installed on private or public property shall comply with the requirements of this section. This section does not apply to interior lighting.
2. Nonconforming fixtures in existence prior to adoption of this Ordinance shall be exempted from this requirement, provided however, that if a nonconforming fixture is replaced, the replacement fixture shall meet the requirements of this section.
3. Compliance for single-family residences shall be enforced on a written complaint basis.
4. In the event of a conflict between this section and any other section of this Ordinance, the more stringent requirement shall apply.
5. This section applies to street lighting.

C. Submittals

1. Applications for Building zoning approval shall contain the following information:
   a. Plans indicating the location, type, and height of lighting including both Building and ground mounted fixtures;
   b. A description of the lighting, including lamps, poles or other supports, and shielding devices, which may be provided as catalogue cuts from the manufacturer;
   c. Photometric data, such as that furnished by the manufacturer, showing the angle of light emission; and,
   d. Additional information as may be required in order to determine compliance with this section.

D. General Standards

1. All lamps shall be shielded.
2. All outdoor lighting fixtures shall be designed, installed, located and maintained such that nuisance glare onto adjacent properties or streets shall be minimized to the greatest extent practical. New construction shall have all outdoor light fixtures with shielded fixtures that direct the light downward.
3. Disabling glare onto adjacent properties or streets shall not be permitted. This section shall be enforced on a written complaint basis.
4. No light fixture shall reflect light any further away from the direct downward location of the fixture to the ground, more than 2.5 times the distance of the height of the fixture from the ground.
5. **Neon Lights.** Neon Lights may be used, whether for signage or lighting, only upon the approval of the Commission. A request for approval of a neon light shall be treated as a request for a Variance, and will processed in the same manner as a request for a Variance set forth herein.
6. **Maintenance.** It shall be the responsibility of the property owner and/or tenant to

properly maintain illumination levels and required shielding.

7. **Further Restrictions.** The Town reserves the right to further restrict outdoor lighting, including but not limited to restriction of pole height and level of illumination, when it is deemed to be in the best public interest in keeping with the stated purpose of this section.

SECTION 31. SUPPLEMENTARY USE REGULATIONS

A. Business Licenses. No business license shall be issued for any development or use of land unless the activity is in compliance with all applicable supplementary use regulations specified in this Section. In the case of a conflict with zoning district dimensional regulations or other regulations of this Zoning Code, the more restrictive requirement shall apply unless otherwise specifically provided or clearly intended.

B. Trash Receptacles. All businesses shall provide trash receptacles of sufficient size to contain all disposable trash produced by the facility.

C. Sexually-Oriented Businesses: Sexually-Oriented Businesses shall be subject to the following supplementary use standards:

1. Location and Distance Requirements:
   - **a.** Residential: No permit shall be granted for a Sexually-Oriented Business at any location that that is less than 2,640 feet from a residential zoned property.
   - **b.** Schools and Parks and Religious Institutions: No permit shall be granted for a Sexually-Oriented Business at any location that is less than 2,640 feet from any private or public school, park, child care facility, religious institution, or place of worship.
   - **c.** Other Sexually-Oriented Businesses: No permit shall be granted for a Sexually-Oriented Business at any location that is less than 2,640 feet from any other Sexually-Oriented Business.
2. Measurement of Distance:
   - **a.** The distance between any Sexually-Oriented Business and any religious institution, school, public park or child care facility or any property zoned for residential use shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of the Sexually-Oriented Business to the closest property line of the religious institution or place of worship, private or public school, park, child care facility or property zoned for residential use.
   - **b.** The distance between any two (2) Sexually-Oriented Businesses shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each such business.
3. Other Regulations: Sexually-Oriented Businesses must also comply with all other regulations contained in the Town Code, including, but not limited to, licensing and permitting regulations.

D. Daycare. The following supplementary use standards shall apply to daycare uses, as indicated:

1. Licensing and Registration: Daycare providers shall be licensed or registered with the State;
2. No on-street parking or loading facilities shall be permitted in association with

such activity.

E. Kennel, Commercial. No Person shall operate a kennel, grooming parlor, pet shop, refuge, shelter, guard dog site or Hobby Breeder Site without a valid conditional use permit. A permit may be obtained under the following conditions following the guidelines established in Section 34.

1. Payment of an annual business license at the Town offices
2. Demonstration of a certification of zoning from the Planning & Zoning Official.
3. Annual inspection of the premises used for keeping animals by an animal control officer.
4. Conditional Use permits in Residential areas will only be granted for the breeders of less than five (5) litters annually.

F. Mining and Quarrying: Mining and quarrying activities shall be subject to the following supplementary use regulations:

1. Location: Mining and quarrying operations shall comply with the following location standards:
   a. Mines or quarrying operations shall have direct access to secondary or primary arterial streets capable of handling the expected highway loads of heavy truck vehicular traffic.
   b. To minimize adverse impact upon surrounding properties, all above-ground activity shall be located at least 2,460 feet from the Lot line of any site used or zoned for residential purposes.

G. Auto Service, Limited; Car Wash; Gasoline Sales, Limited; Service Station; Vehicle and Equipment Repair; and General: These uses shall comply with the following supplementary use regulations:

1. Bays and Vehicular Use Areas: Whenever possible, uses with service bays and other vehicular use areas should be designed so that these areas face away from streets and residential areas. Landscaping shall be provided in compliance with the Landscaping Ordinance. To protect neighboring property from potential loss of use or diminishment of land value, the Planning & Zoning Official may recommend, and the Planning & Zoning Commission may approve an increase of the land use buffer factor for approved outdoor vehicular use areas.
2. Outside Storage: Outside storage or keeping of parts is prohibited unless designated as part of approved development plans for Motor Vehicle and equipment repair facilities only.

H. Construction Sales and Service: Outdoor storage areas permitted under the definitions of construction sales and service, general and limited, shall be subject to the following supplementary use regulations:

1. Screening and Enclosures: Outdoor storage areas shall comply with the screening requirements of the Landscape Ordinance. Fences and walls used to provide screening shall be maintained in a neat, clean, safe and structurally sound condition. Materials stored within the enclosure shall not be permitted to exceed the height of the fence or wall. No signs or advertising devices shall be placed upon fences or walls used to provide visual screening of outside

storage areas.

2. Outdoor storage areas shall be ancillary to the primary use and may not exceed fifteen percent (15%) of the main Building Floor Area unless the screening method is an extension of the architecture of the main Building.

I. **Banking Services and Fast-Food Restaurants:** Banking services and fast-food restaurants shall comply with the following supplementary use regulations:

1. Vehicular and Outdoor Use Areas: Whenever possible, vehicular and outdoor use areas should be designed to reduce impacts to adjoining properties. To protect neighboring property from potential loss of use or diminishment of land value, the Planning & Zoning Official may recommend and the Planning & Zoning Commission may approve an increase of the land use buffer factor for approved vehicular and outdoor use areas.
2. Trash Receptacles: All fast-food facilities shall provide their own enclosed trash and recycling receptacles, either inside our outside of the facility, of sufficient size to contain all disposable trash and recyclable materials produced by the facility. The management will be responsible for the policing of all trash and recyclable material associated with the operation of this facility.

SECTION 32. PERFORMANCE STANDARDS IN ALL DISTRICTS

A. Purpose. The purpose of the performance standards procedures is to ensure that an objective, unbiased determination is made in those cases where there may be substantial doubt as to whether an individual structure or development complies with the performance standards of this Chapter and to formulate practical ways for the alleviation of such noncompliance.

B. Proposed Development. Any Person proposing development affected by these performance standards shall submit as a part of the final plan application such information as may be necessary to demonstrate that the proposed development will comply with the performance standards set forth in this Ordinance.

C. Existing Violations. When the Planning & Zoning Official, after due investigation, reasonably determines that an existing use violates one (1) or more of the performance standards in this Section, the Planning & Zoning Official or their designee shall begin the enforcement process set forth in this Ordinance, beginning with a notice of violation.

D. Heat. No heat from furnace processing equipment or other device shall be sensed at the Lot line to the extent of raising the temperature of air or materials more than five degrees Fahrenheit (5°F).

E. Noise:

1. Noise shall be measured with a sound level meter having an A-weighted filter constructed in accordance with specifications of the American National Standards Institute (ANSI). Measurements are to be made at any point as indicated in the table following.
2. Impact noise shall be measured using the fast response of the sound level meter. Impact noises are intermittent sounds such as from a punch press or drop forge hammer. Measurements are to be made at any point as indicated in table

following.

3. Between the hours of 7:00 P.M. and 7:00 A.M. the permissible sound levels in a residential Zone District shall be reduced by five (5) decibels for impact noises.
4. Violations of this provision shall be enforced in accordance with the nuisance requirements set forth in Section 34 herein.
5. The following sources of noise are exempt:
   a. occasionally used safety signals, warning devices and emergency pressure relief valves;
   b. temporary construction activity between 7:00 A.M. and 7:00 P.M.
   c. TOE-AP Zone
6. The following Table describes the maximum sound pressure level permitted from any source and measured in any adjacent residential Zone District, commercial Zone District or industrial Zone District:

Noise Maximum Permitted Sound Levels, dB(A) (re: 0.0002 Microbar)		
Impact District	**Continuous Sound Measured in Slow Meter**	**Impact Sound Measured in Fast Meter Response**
Residential	55	65
All Commercial	60	70
All Industrial	70	80

NOTES: "Impact District" identifies any district (by zoning classification) in which the sound can be heard or felt, without regard to the zoning of the property on which the activity takes place. All sound shall be measured in decibels at a property line of the property on which the activity takes place.

F. Air Pollution: The total emission rate of dust and particulate matter from all vents, stacks, chimneys, flues or other opening or any process, operation or activity except solid waste incinerators within the boundaries of any Lot, shall not exceed the levels established by State rules and regulations governing air contamination and air pollution.

G. Prima Facie Odor Violations:

1. It shall constitute prima facie evidence of an odor violation if a chemical or substance is used, stored, or placed at a property and the odor emanating from the chemical or substance is offensive to and plainly detectable across the property boundary line by a reasonable person with ordinary olfactory sensitivity.
2. It shall constitute prima facie evidence of an odor violation if an odor is offensive to and plainly detectable across the property boundary line by a reasonable person with ordinary olfactory sensitivity, the odor persists for in excess of eight (8) consecutive hours, and the source of the odor is any of the following activities or conditions:
   a. Trash or garbage placed outside;
   b. Animal waste in yard, kennel, or stable; or
   c. Septic conditions resulting from standing water or liquid waste.
3. It shall constitute prima facie evidence of an odor violation if a process, activity or condition results in frequent, periodic releases of odor-producing substances that are offensive to and plainly detectable by a reasonable person with ordinary olfactory sensitivity. A frequent, periodic release involves at least four (4) separate releases in a twenty-four (24) hour period.

H. Swimming Pools: Fences are required around any swimming pool which is greater than three (3) feet in depth or which exceeds 5,000 gallons. The pool must be enclosed on all sides by a fence or other barrier that provides an impediment of a least six (6) feet thereby limiting access. In the event of a grade separation or the erection of an above ground swimming pool, the six (6) foot minimum height is measured from outside the fence, while the pool is on the inside. Gates on pool fences are required to be 6 feet in height with a self-closing latch at least 4½ feet (54 inches) off the ground. In the case where a common fence cannot be used for a swimming pool fence, the swimming pool fence must be a minimum of five (5) feet from the common property line fences.1

Solar collectors shall be the preferred source to heat all swimming pool water. Exception: Indoor swimming pools that are accessory to occupancies regulated by the International Building Code.

SECTION 33. NONCONFORMANCE

A. Definition. Within the Zone Districts established by this Ordinance, or subsequent amendments hereto, there exist Lots, structures, and uses of land and structures which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or subsequent amendment. Such Lots, structures or uses are nonconformities. It is the intent of this Ordinance to allow these nonconformities to continue until they are removed, unless otherwise stated herein, but not to encourage their survival. Permissive Uses under this ordinance shall not be defined as nonconformities.

B. Letter of Nonconformance. Nonconformities, upon discovery, shall be issued a Letter of Nonconformance by the Planning & Zoning Official by certified mail. Upon receipt of this written notification, it shall be the responsibility of the owner or owners of the Nonconforming Use, Lot, or Structure to contact the Planning & Zoning Official within thirty (30) days after the date of notification. Failure to contact the Planning & Zoning Official shall be considered a violation of this Ordinance.

C. Expansion. A nonconformity shall not be enlarged, expanded, or extended. However, the addition of a lawful use to any portion of a Nonconforming Use, Lot, or Structure, which existed prior to the enactment of this Ordinance, shall not be deemed an extension of the nonconformity.

D. Abandonment. Whenever a nonconformity has been discontinued or abandoned for a period of one (1) year or more, that nonconformity shall not be reestablished, and any future use shall be in conformance with the provisions of this Ordinance.

E. Restoration. If a nonconformity is damaged or destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at the time of destruction, then restoration must be for an allowed use.

F. Nonconforming Lot Size. Any Lot of record existing prior to the effective date of this Ordinance, which fails to meet the minimum area requirements, may be developed or improved provided that Setback and other requirements of the Lot are in conformance with the provisions of this Ordinance. A Nonconformance Certificate will not be required

for Nonconforming Lots.

G. Vested Rights. Nothing in this Ordinance shall require any change in plans, construction, or designated use of a Building for which a permit has been issued prior to enactment of this Ordinance, or amendments hereto.

SECTION 34. CONDITIONAL USE PERMIT WIND ENERGY CONVERSION SYSTEMS (WECS)

A. Purpose. The purpose of this section is to:

1. Oversee the permitting of Wind Energy Conversion Systems (WECS);
2. Preserve and protect public health and safety without significantly increasing the cost or decreasing the efficiency of a WECS.

B. Standards. A WECS and/or a Non-Commercial WECS shall be a Conditional Use in all Zone Districts subject to the following requirements:

1. **Setbacks**. A Wind Tower for a Non-Commercial WECS shall be set back a distance equal to a distance of 1.10 of its Total Height from:
   a. any public road right of way, unless written permission is granted by the governmental entity with jurisdiction over the road;
   b. any overhead utility lines, unless written permission is granted by the affected utility;
   c. all property lines, unless written permission is granted from the affected land owner or neighbor.
2. **Access**. Applicant or his/her agent shall take all reasonable measures to insure that the Wind Tower and its various appurtenances are not allowed to become an attractive nuisance. These measures may include but are not limited to access ladders, fencing, or no-climb design.
3. **Electrical Wires**. All electrical wires associated with a Non-Commercial WECS, other than wires necessary to connect the Wind Generator to the Wind Tower wiring, the Wind Tower wiring to the disconnect junction box, and the grounding wires shall be located underground.
4. **Lighting**. A Wind Tower and Wind Generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.
5. **Appearance, Color, and Finish**. The Wind Generator and Wind Tower shall remain painted or finished the color or finish that was originally applied by the manufacturer, unless approved in the Building permit.
6. **Signs**. All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a Wind Generator, Wind Tower, Building, or other structure associated with a Non-Commercial WECS visible from any public road shall be prohibited.
7. **Code Compliance**. A Non-Commercial WECS including the Wind Tower shall comply with all applicable state construction and electrical codes.
8. **Utility Notification and Interconnection**. WECS that connect to an electric utility shall comply with the requirements of the New Mexico Public Regulation Commission.
9. **Meteorological Towers (Met Towers).** Met Towers shall be permitted under the same standards, permit requirements, restoration requirements, and permit procedures as a Non-Commercial WECS.
10. **Multiple WECS**. Multiple Non-Commercial WECS are allowed on a single

parcel as long as the Non-Commercial WECS are installed in compliance with minimum Setbacks and clear zone requirements and the minimum distance between Non-Commercial WECS shall be equivalent to one hundred percent (100%) of the combined height of the Wind Tower plus the blade length.

C. Permit Requirements.

1. **Building Permit**. A Building permit shall be required for the installation of a Small WECS.
2. **Documents**: The Building permit application shall be accompanied by a plot plan which includes the following:
   - **a.** Visual Impact Assessment, which shall include:
     - **i.** A " Zone of Visibility Map" which shall be provided in order to determine locations from which the Wind Tower may be seen.
     - **ii.** An assessment of the visual impact of the Wind Tower base, guy wires and Accessory Buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of screening.
   - **b.** Property lines and physical dimensions of the property;
   - **c.** Location, dimensions, and types of existing major structures on the property;
   - **d.** Location of the proposed Wind Tower;
   - **e.** The right-of-way of any public road that is contiguous with the property;
   - **f.** Any overhead utility lines;
   - **g.** WECS specifications, including manufacturer and model, rotor diameter, Wind Tower height, and/or Wind Tower type (freestanding or guyed);
   - **h.** Wind Tower foundation blueprints or drawings; and
   - **i.** Wind Tower blueprint or drawing.
3. **Fees**. The application for a Building permit for a Small WECS must be accompanied by the fee required for a Building permit application and for a Conditional Use Permit.
4. **Expiration**. A permit issued pursuant to this section shall expire if:
   - **a.** The Non-Commercial WECS is not installed and functioning within 24-months from the date the permit is issued; or,
   - **b.** The Non-Commercial WECS is out of service or otherwise unused for a continuous 12-month period.

D. Abandonment.

1. A Non-Commercial WECS that is out-of-service for a continuous 12-month period will be deemed to have been abandoned. The Planning & Zoning Official may issue a notice of abandonment to the owner of the Non-Commercial WECS that it is deemed to have been abandoned. The owner shall have the right to respond to the Notice of Abandonment within thirty (30) days from notice receipt date. The Planning & Zoning Official shall withdraw the notice of abandonment and notify the owner that the notice has been withdrawn if the owner provides information that demonstrates the Non-Commercial WECS has not been abandoned.
2. If the Non-Commercial WECS is determined to be abandoned, the owner of the Non-Commercial WECS shall remove the Wind Generator from the Wind Tower at the owner's sole expense within three (3) months of receipt of notice of abandonment. If the owner fails to remove the Wind Generator from the Wind

Tower, the Planning & Zoning Official may pursue a legal action to have the Wind Generator removed at the owner's expense.

E. Building Permit Application Submittal Procedure.

1. An owner shall submit an application to the Planning & Zoning Official for a permit for a Non-Commercial WECS. The application must be on a form approved by the Planning & Zoning Official and must be accompanied by two (2) copies of the plot plan identified above.
2. The Planning & Zoning Official shall schedule the public hearing on the application within one (1) month of the date on which the application is received.
3. If the application is approved, the Planning & Zoning Official will return one (1) signed copy of the application with the permit and retain the other copy with the application.
4. If the application is rejected, the Planning & Zoning Official will notify the applicant in writing and provide a written statement of the reason why the application was rejected. The applicant may appeal the Planning & Zoning Official's decision in accordance with state law. The applicant may reapply if the deficiencies specified by the Planning & Zoning Official are resolved.
5. The owner shall conspicuously post an approved development permit/Building permit on the premises so as to be visible to the public at all times until construction or installation of the Small WECS is complete.

F. Violations. It is unlawful for any Person to construct, install, or operate a Non-Commercial WECS that is not in compliance with this section or with any condition contained in a Building permit issued pursuant to this section. Non-Commercial WECS installed prior to the adoption of this section are exempt.

G. Administration and Enforcement.

1. This section shall be administered by the Planning & Zoning Official or other official as designated.
2. The Planning & Zoning Official may enter any property for which a Building permit has been issued under this section to conduct an inspection to determine whether the conditions stated in the permit have been met.
3. The Planning & Zoning Official may issue orders to abate any violation of this section.
4. The Planning & Zoning Official may issue a citation for any violation of this section.
5. The Planning & Zoning Official may refer any violation of this section to legal counsel for enforcement.

H. Penalties.

1. Any Person who fails to comply with either the provisions of this section or a development permit issued pursuant to this section, shall be in violation of this Ordinance and shall be subject to the enforcement provisions and/or the penalties provided for herein.
2. Nothing in this section shall be construed to prevent the Town of Edgewood from using any other lawful means to enforce this section.

A. Permit Required. Conditional Uses that are established by this Ordinance shall not be allowed except upon the review and approval for a Conditional Use permit issued by the Planning & Zoning Commission, which shall be guided in making a decision by the criteria set forth in this section.

B. Application. Any request for a Conditional Use Permit shall be submitted with an administrative fee to the Planning & Zoning Official on a prescribed application form obtainable at the Town offices. The Planning & Zoning Official shall transmit the completed application and any supplementary information to the Planning & Zoning Commission for review and consideration at their next scheduled meeting.

C. Notice of Public Hearing Notice of public hearing before the Planning & Zoning Commission to consider an application for a Conditional Use Permit shall be given as follows:

1. By publication at least once in a weekly newspaper of general circulation in the Town not less than fifteen (15) Calendar days prior to the date of the public hearing; and
2. By mailing a written notice thereof, not less than ten (10) days prior to the date of such hearing to the applicant, the owner of the subject property and to the owners of properties within 300 feet of the exterior boundary of the subject property or properties; such notices shall be sent by first-class mail; and
3. By posting such notice in at least one (1) prominent place on or about each parcel which is the subject of the proposed action. In the event more than one (1) parcel is the subject of such hearing, and such parcels comprise 200 or more feet of street frontage, at least one (1) such notice shall be posted on or about the street line at intervals of not less than 200 feet, starting at either end of the subject properties where the property line intersects the street line; and
4. By posting such notice online on the Town's Web site not less than fifteen (15) Calendar days prior to the date of the public hearing.

D. Guidelines. A Conditional Use Permit shall not be approved unless satisfactory provisions have been made concerning the following issues, where applicable:

1. Accessibility to the property and proposed structures on the premises, with particular reference to vehicular and pedestrian safety, traffic control, Off Street Parking, and emergency access in case of fire, flood, or catastrophe;
2. Connections to water and sewer services and other public utilities, with reference to necessary easements or dedications;
3. Storm water drainage control and flood protection with reference to the National Flood Insurance Program;
4. Solid waste management systems and the potential for Hazardous Materials or other waste;
5. Hobby Breeder Sites will comply with all requirements of the animal control ordinance.
6. The economic, noise, glare, or odor effects of the Conditional Use on contiguous properties; and general compatibility with contiguous properties and other properties in the area.

E. Limitations. Conditional Use Permits issued in accordance with the requirements of this Ordinance shall be considered permanent, with the following exceptions.

1. For any Conditional Uses that have an exceptional tendency, because of their nature or character, to create an adverse impact on neighboring properties, the Planning & Zoning Commission may limit the term of the permit to a specified length of time after which the permit shall expire and may be renewed. An application for renewal of the Conditional Use Permit may be submitted and processed in the same manner as the original application, with a reduced administrative filing fee.
2. Where there has been a significant change in the physical extent, operations, or character of a permitted Conditional Use, the Planning & Zoning Commission may require a renewal of the original Conditional Use Permit. Significant change shall be determined by the Planning & Zoning Commission, based on a scheduled review of the Conditional Use Permit
3. An approved Conditional Use Permit shall become void one year after the date of approval if the rights and privileges granted thereby have not been utilized.
4. An approved Conditional Use Permit shall become void if, after the use has begun, it ceases on the approved site for a continuous period of one year or more.

SECTION 36. NUISANCES

A. Purpose. This chapter is intended to promote the general health, safety and welfare of the people of the Town by prohibiting the creation or maintenance of nuisances upon any business, industrial or residential properties within the Town limits.

B. Declaration by Council of Nuisance. The Town governing body may declare by resolution that a Motor Vehicle, Dilapidated Building or other Property Nuisance exists and that it is a menace to the public safety, health, morals, or welfare or that its unsightly appearance tends to discourage residential or commercial development in the property's immediate area, and that it is condemned and the nuisance must be abated in accordance with this ordinance and/or any required correction action set forth therein by the Town governing body.

C. Service of Resolution. A copy of the resolution shall be served on the owner, occupant or agent in charge of the condemned Building, structure, house or property. If the owner, as shown by the real estate records of the county clerk, occupant or agent in charge of the Building, structure, house or property cannot be served within the Town, a copy of the resolution shall be posted on the Building, structure house or property and a copy of the resolution shall be published one time in a local newspaper.

D. Removal of Nuisance Vehicle, Dilapidated Building, or other Property Nuisance or filing of objection. Within ten (10) days of the receipt of a copy of the resolution or of the posting and publishing of a copy of the resolution, the owner, occupant or agent in charge of the Nuisance Vehicle, Dilapidated Building, or Property Nuisance shall commence removing the nuisance, or take the corrective action approved by the Town governing body.

E. Appeal to District Court. Any Person aggrieved by the determination of the Town governing body may appeal to the District Court by:

1. Giving notice of appeal to the Mayor within five (5) days after the determination

made by the Town governing body;

2. Filing a petition in the District Court within twenty (20) days after the determination made by the Town governing body.

F. Cost of Removal Constitutes a Lien. The Town may take corrective action to abate the nuisance if the owner, occupant or agent in charge of the condemned Building, structure, house or property fails to commence removing or correcting the Property Nuisance as follows:

1. Within ten (10) days of being served a copy of the resolution or of the posting and publishing of the resolution provided no timely appeal is filed; or
2. Within five (5) days of the determination of the Town governing body that the resolution shall be enforced; or
3. Within thirty (30) days after the District Court enters judgment.

The Mayor or the Mayor's designee shall determine to method to be used to remove the Property Nuisance. The reasonable cost of the removal shall constitute a lien against the Building, structure, house or property from which it was removed. The lien shall be foreclosed in the manner provided for by state law.

G. Removal of Salvage Value. The Mayor or the Mayor's designee may at their discretion, with the consent of the owner, pay for the cost of removal of any condemned Building, structure or house by granting to the Person removing such structure, the legal title to all salvageable materials in lieu of all other compensation.

H. Clean premises. Any Person or firm removing any condemned Building, structure, or house shall leave the premises from which the material and debris has been removed in a clean, level and safe condition, suitable for further occupancy or construction and with all excavations filled.

SECTION 37. VARIANCES

A. Authority. The Planning & Zoning Commission may approve a Variance from the strict application of area, height, dimension, distance, Setback, and off-street parking requirements of this Ordinance.

1. A Variance may be granted, but only if such Variance is:
   - **a.** Consistent with the general intent and purposes of these Regulations; and
   - **b.** In accordance with any other applicable and legally adopted plans and policies of the Town; and
   - **c.** Not detrimental to the general public welfare.
   - **d.** Where, owing to special conditions, a literal enforcement of the zoning ordinance will result in unnecessary hardship.

B. Application. Any subdivider/Developer requesting a Variance shall complete an application on prescribed forms available from the Town, pay any required administrative fee(s), and submit any other required supporting documentation. Supporting documentation shall include, but not be limited to any additional information requested by the Town, such as a written statement specifying: any and all Regulations or Standards from which a Variance is requested; the reason(s) for the requested Variance; and any and all proposed alternative Regulations or Standards.

C. Fee. Fees shall be in accordance with these Regulations and Standards.

D. Review/Discussion

1. The Planning & Zoning Commission shall review and discuss the request for Variance and supporting documentation at a regular meeting, and may request comments from Town staff and/or from other governmental and utility agencies.
2. The Planning & Zoning Commission shall:
   a. Call for a Public Hearing.
   b. Direct Town staff to post signs announcing the Public Hearing for a minimum of fifteen (15) days prior to the Public Hearing in those locations identified by the Planning & Zoning Commission as likely to provide sufficient notice to the public.
   c. Take action on the request at the Public Hearing, including:
      i. Disapprove the request;
      ii. Approve the request; or
      iii. Delay taking final action until the next regular meeting.

E. Recording: Approval of any request for Variance, and any supporting documentation for such request, shall be attached to and become an integral part of the Plat of the development. Acceptance and recording shall be in accordance with the appropriate procedure of these Regulations and Standards.

F. Right of Appeal. Any Person aggrieved by a decision of the Planning & Zoning Commission in carrying out the provisions of this Ordinance may appeal that decision to the Town governing body, de novo, provided they are not charge decisions which will proceed to Municipal Court. An appeal must set forth specifically a claim that there was an error or an abuse of discretion, or that a decision was not supported by evidence in the matter.

SECTION 38. ADMINISTRATION

A. Administrative Official. A Planning & Zoning Official or their designee shall administer the provisions of this Ordinance. The Planning & Zoning Official may also serve in some other capacity as an employee or appointed official of the Town of Edgewood.

B. Inspection. The Planning & Zoning Official has the authority to conduct an inspection of Buildings, structures, and the use of land to determine compliance with this Ordinance. This provision does not grant right of entry without due process, if necessary. The Planning & Zoning Official shall provide for on site inspections and other relevant information which may be requested by the Town governing body or the Planning & Zoning Commission as necessary to carry out the purpose of this Ordinance.

C. Violations, Complaints, and Notifications. The Planning & Zoning Official may institute any appropriate actions or proceedings whenever there is probable cause to believe there is a violation of this Ordinance. Any Person aggrieved by an apparent violation of this Ordinance shall file a written complaint with the Planning & Zoning Official which shall immediately investigate the complaint to determine if a violation of this Ordinance is found to exist. Whenever the Planning & Zoning Official finds probable cause to believe that a violation of this Ordinance exists, whether acting on independent initiative or in response to a complaint, the Planning & Zoning Official shall notify the Person responsible for the alleged violation in writing. The notification shall order the

necessary correction to be made within sixty (60) days following the date of notification or any other time period specified herein. Any Person who fails to comply with the notification order shall be subject to penalties as stated in this Ordinance.

D. Information and Records. The Planning & Zoning Commission shall maintain an office to supply the public with information concerning this Ordinance and shall maintain the official TOWN OF EDGEWOOD ZONING MAP in an updated form. A "Zoning Action File" shall be maintained and shall contain records which include the following categories:

- **a.** Amendments to the Zoning Ordinance and Maps;
- **b.** Building Permit Applications (with Elevation Certificates as appropriate);
- **c.** Conditional Use Permits;
- **d.** Manufactured Home Installations;
- **e.** Nonconformance Certificates;
- **f.** Site Development Plans;
- **g.** Variances allowed under this Ordinance;
- **h.** Zoning Appeals; and
- **i.** Zoning Violations.

SECTION 39. CONSTRUCTION TRAILERS USE REGULATIONS

Uses Authorized by Special Permit

A. Construction Trailers. Use of Construction Trailers in accordance with the requirements of this section is authorized upon issuance of a Special Permit by the Planning & Zoning Official. Use of all Construction Trailers permitted within the Town of Edgewood is subject to, but not limited to, the following conditions:

1. The Construction Trailer shall be used exclusively as temporary living quarters on the subject Lot by the owner-occupants of a single-family dwelling being constructed, undergoing substantial renovation or being rebuilt due to fire or natural disaster.
2. The permit will be effective for a period of one (1) year, renewable at the discretion of the Planning & Zoning Commission for up to one (1) additional consecutive year only.
3. The Construction Trailer shall conform to all use and dimensional regulations, as well as State Construction Industries standards.

B. Construction Office Trailer. Placement of a construction office trailer to be used for temporary office space is permitted subject to the following conditions and provided:

1. The construction office trailer is required in the specifications of a commercial construction or infrastructure project;
2. The construction office trailer is used solely for the conduct of business related to the project for which it is installed; and
3. The construction office trailer shall be removed from the construction site within thirty (30) days of completion of an approved project.

C. Storage Trailer. A temporary storage trailer(s) may be permitted for the storage of Building materials, equipment or personal effects only when explicitly provided for as a condition in a Building Permit. Such condition shall stipulate that the storage trailer(s) shall be removed from the site within thirty (30) days of satisfactory final inspection or within eighteen (18) months of installation, whichever period is shorter.

SECTION 40. AMENDMENTS

A. Authority. The Town governing body may amend or change by ordinance the text of this Ordinance and/or the TOWN OF EDGEWOOD ZONING MAP, including any of the regulations, procedures, or Zone District boundaries established by the Town.

B. Application. Any request for an amendment to this Ordinance shall be submitted with the applicable administrative fee to the Planning & Zoning Official on a prescribed application form obtainable at the Town offices. An application may be initiated by the Town acting on behalf of the community at large. The Planning & Zoning Official shall transmit the completed application and any supplementary information to the Planning & Zoning Commission at their next scheduled meeting.

The established zoning is considered to be correct and appropriate unless an applicant can sufficiently justify why an amendment should be made.

The Planning & Zoning Commission shall prepare and transmit a recommendation or decision in writing to the Town governing body within seven days after their review of the proposed amendment is completed. To the extent possible, all contiguous property owners of any land proposed for a zone change shall be notified of the Planning & Zoning Commission meeting at which the zone change will be reviewed.

C. Public Hearing. Notification of the time and place of the public hearing shall be:

1. **Publication.** By publication at least once in a weekly newspaper of general circulation in the Town not less than fifteen (15) calendar days prior to the date of the public hearing; and
2. **Written Notice to Landowners.** By written notice as follows:
    - **a.** Whenever a zone change is proposed for an area of one (1) block or less, notice of the public hearing shall be by written notice sent by certified mail, return receipt requested, to the owners of land within the area proposed to be changed by a zoning regulation and within one hundred (100) feet, excluding public right-of-ways, of the area proposed to be changed by a zoning regulation.
    - **b.** Whenever a zone change is proposed for an area of more than one (1) block, notice of the public hearing shall be mailed by first class mail to the owners of land within the area proposed to be changed by a zoning regulation and within one hundred (100) feet, excluding public right-of-way, of the area proposed to be changed by a zoning regulation.
    - **c.** If any notice by first class mail is returned undeliverable, the Town shall attempt to discover the owner's most recent address and shall remit the notice by certified mail, return receipt requested; and
3. **Posting.** By posting such notice in at least one (1) prominent place on or about each parcel which is the subject of the proposed action. In the event more than one (1) parcel is the subject of such hearing, and such parcels comprise two hundred (200) or more feet of street frontage, at least one (1) such notice shall be posted on or about the street line at intervals of not less than two hundred (200) feet, starting at either end of the subject properties where the property line intersects the street line.

D. Right of Appeal. Any appeal following a decision of the Planning & Zoning Commission shall be made in writing on prescribed forms obtainable at the Town offices, upon payment of an administrative fee, and submitted to the Town. Appeals more than thirty (30) days after the decision which is the subject of the appeal was issued shall be considered untimely and will not be considered by the Town governing body. All papers involved in the proceedings shall be transmitted to the Town governing body within seven (7) days after receipt of the appeal application.

E. Public Hearing. The decision on an appeal shall be made by the Town governing body following a public hearing. Notification of the time and place of the public hearing shall be published in a newspaper of general circulation in the Town at least fifteen (15) days prior to the hearing. The Planning & Zoning Commission shall notify the applicant, and a representative of the opponents, if any, of the hearing date in writing.

F. Stay of Proceedings. An appeal shall stay all proceedings in the action unless the Planning & Zoning Commission certifies that a stay will cause imminent peril to life or property. Upon certification, the proceedings shall not be stayed except by order of the District Court.

G. Decision. An appeal shall be decided within sixty (60) days of the date of application of the appeal. A majority vote of the members of the Town governing body is required to reverse, change, or affirm a decision made by the Planning & Zoning Commission.

H. In the event of an amendment to this Ordinance which necessitates a change to the TOWN OF EDGEWOOD ZONING MAP, such amendments to the TOWN OF EDGEWOOD ZONING MAP shall be automatically authorized and completed.

SECTION 41. ADMINISTRATIVE FEES

A. Applications. Any applications required by this Ordinance shall be filed on prescribed forms obtainable at the Town offices and shall be accompanied by the applicable administrative fee. Administrative fees shall not be required where any official of the Town of Edgewood is the moving party. The purpose of an administrative fee is to cover the processing costs, and shall not be refundable. All fees shall be paid to the Town Clerk at the time of application, and shall be made payable to the Town of Edgewood.

B. Administrative Fees. Administrative fees will be charged in accordance with the Council resolution establishing the fees authorized hereunder.

SECTION 42. PENALTIES

A. Penalties Assessed. Any Person violating any of the provisions of this Ordinance shall, upon conviction, be subject to a fine not exceeding $500 or imprisonment for a period not exceeding ninety (90) days, or both as authorized in NMSA (1978) § 3-17-1, or such other fine, period of imprisonment, or penalty authorized by law. Any violation which continues for a period of thirty (30) days or more after conviction hereunder shall be prosecuted and treated as a separate offense.

B. Severability. The provisions of this Ordinance are severable. Should any part of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance other than the part so

declared to be unconstitutional or invalid.

SECTION 43. EFFECTIVE DATE.

This Ordinance shall take effect on the 11th day of August 2014.

PASSED, APPROVED and ADOPTED this 4th day of FEBRUARY, 2014.

Brad E. Hill, Mayor

ATTEST:

Estefanie B. Muller, CMC, Clerk Treasurer