

**COMPREHENSIVE  
ZONING ORDINANCE**

**of the**

**TOWN OF EDGEWOOD, SANTA FE COUNTY, NEW MEXICO**

**September 1, 1999**

## TABLE OF CONTENTS

SECTION	PAGE
1. TITLE.....	1
2. PURPOSE.....	1
3. APPLICABILITY.....	1
4. DEFINITIONS.....	1
5. GENERAL PROVISIONS.....	8
6. ZONE DISTRICT BOUNDARIES .....	9
7. R-1 CONVENTIONAL RESIDENTIAL ZONE.....	10
8. R-2 CLUSTER RESIDENTIAL ZONE.....	11
9. R-3 RESIDENTIAL / INSTITUTIONAL ZONE.....	12
10. R-4 MOBILE HOME RESIDENTIAL ZONE.....	13
11. CB COMMERCIAL BUSINESS ZONE.....	14
12. MP-MASTER PLAN ZONE.....	16
13. SU SPECIAL USE ZONE.....	19
14. SITE DEVELOPMENT STANDARDS.....	21
15. WELLHEAD PROTECTION OVERLAY ZONE.....	22
16. FLOOD PROTECTION OVERLAY ZONE.....	27
17. OFFSTREET PARKING.....	27
18. ADMINISTRATION.....	28
19. DEVELOPMENT REVIEW.....	29
20. NONCONFORMANCE CERTIFICATE.....	30
21. CONDITIONAL USE PERMIT .....	31
22. VARIANCES.....	32
23. AMENDMENTS.....	33
24. APPEALS.....	34
25. ADMINISTRATIVE FEES.....	34
26. PENALTIES.....	35
27. SEVERABILITY.....	35
28. EFFECTIVE DATE.....	36

**ORDINANCE NO. 1999-Q**

**AN ORDINANCE ADOPTING COMPREHENSIVE  
ZONING REGULATIONS  
FOR THE TOWN OF EDGEWOOD, NEW MEXICO**

**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 adequate 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. The singular number includes the plural number and the plural number includes the singular number. The words "shall" and "must" are mandatory, and the word "may" is permissive.

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

1. "Accessory" means subordinate and incidental to a principle use or structure on the premises.
2. "Basement" means the lowest story of a building, below the main floor

and wholly or partly below the surface of the ground.

3. "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 five guest rooms. This definition includes a "Bed and Breakfast" enterprise.
4. "Building" means a structure, having a roof and intended to be used for sheltering people, animals, property, or business activity.
5. "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 Town.
6. "Contiguous" means touching or separated only by a public right way.
7. "Dwelling, Multiple" means a structure containing two or more dwelling units.
8. "Dwelling, Singular" means a dwelling unit which is not physically connected to any other dwelling units.
9. "Dwelling Unit" means any structure or part of a structure containing one or more connected rooms to be occupied by one family for living and sleeping purposes. A dwelling unit may include a mobile home, manufactured housing, or site built housing.
10. "Family" means one or more persons occupying a dwelling unit, provided that unless all members are related by blood, marriage, adoption, or legal assignment, no such family shall include more than five persons.
11. "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.
12. "Floor Area Ratio" means the relationship of the floor area to the lot area, computed by dividing the floor area by the lot area.

13. "Grade" means the average of the finished ground level at the center of all walls of a building.
14. "Ground Set" means a manufactured home set at ground level. The finished floor of the house shall project no more than 8 inches above the grade outside the building.
15. "Guest House" means a secondary building incidental to the main residence which is used only for the non-commercial boarding of guests or full time workers.
16. "Height" means the vertical distance measured from the lowest ground elevation to the highest point on a structure. When applied to buildings, height means the vertical distance from the grade to the highest point of the roof line.
17. "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.
18. "Lot" means a tract or parcel of land platted and placed on the Santa Fe County Clerk's record in accordance with laws and ordinances, and with access to public right way.
19. "Lot Area" means the area contained within the boundary lines of the lot.
20. "Lot, Corner" means any lot bordering on two or more streets at their intersection.
21. "Lot, Double Frontage" means any lot bordering on two parallel or approximately parallel streets.
22. "Lot Line, Front" means the boundary line of a lot bordering on a street or public right-of-way.
23. "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.

24. "Lot Line, Side" means any lot boundary line which is not a front lot line or a rear lot line.
25. "Manufactured Housing" means a manufactured home or modular home that is a single-family dwelling with a heated area of at least thirty-six by twenty-four feet and at least eight hundred sixty-four square feet, constructed in a factory to the standards of the United States department of housing and urban development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code II or the Uniform Building Code, as amended to the date of the unit's construction, and installed consistent with the Manufactured Housing Act and with the regulations made pursuant to that act.
26. "Mobile Home" means a movable or portable housing structure larger than forty feet in body length, eight feet in width or eleven feet in overall height, designed for and occupied by no more than one family for living and sleeping purposes, but does not include structures built to the standards of any municipal building code and other technical codes.
27. "Mobile Home Park" means one lot on which space is leased or rented by more than one mobile home for occupancy for 30 days or more, and which contains permanent facilities and services for the use of the mobile home occupants.
28. "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.
29. "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.
30. "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.
31. "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 districts.

32. "Parking, Off Street" means an area on a lot used for required parking of motor vehicles as regulated by this Ordinance.
33. "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 attachment 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.
34. "Permissive Use" means any use authorized in a particular zone district established by this Ordinance.
35. "Person" means any individual, estate, trust, receiver, association, club, corporation, company, firm, or other entity.
36. "Planning Commission" means the Planning Commission of the Town of Edgewood. The Planning Commission is recognized as a review and recommending body to the Town Council. The Town Council will make all final decisions pertaining to matters brought before the Planning Commission.
37. "Premises" means any lot or combination of contiguous lots held in single ownership, together with the development thereon.
38. "Public Right-of-way" means a strip of land intended for use as a thoroughfare which has been dedicated to the public by deed, or reserved by plat, or otherwise acquired by the Town, County, State or Federal Government.
39. "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 Week.
40. "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 90 days. No individual metered utilities will be provided.

41. "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.
42. "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 front setback shall be designated on corner lots or double frontage lots.
43. "Setback, Rear" means the minimum allowable distance between any building and the rear lot line 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.
44. "Setback, Side" means the minimum allowable distance between any building and a side lot line of the lot on which such building is located. On corner lots, a side setback shall be designated along one of the lot lines bordering a road or street.
45. "Sign" means a structural device using graphic symbols or written messages to communicate information to the public by directing attention to a product, place, activity, person, institution, or business.
46. "Structure" means anything constructed or erected with a permanent location on the ground, or attached to something having a permanent location on the ground.
47. "Town" means the Town of Edgewood, Santa Fe County, New Mexico.
48. "Town Board" means the Town Council of the Town of Edgewood.
49. "Town Clerk" means the chief administrative officer of the Town as so designated by the Town Board.
50. "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.
51. "Vehicle" means a mechanical device for transporting people or property on a road or highway, with the exception of devices moved by human or animal power.
52. "Zone District" means a mapped area of the Town of Edgewood where regulations governing the use of buildings, structures, and land are uniform.



53. "Zoning Officer" means an appointee of the Town Board who shall administer the provisions of this Ordinance.

**SECTION 5. GENERAL PROVISIONS.**

A. Access to Structures. All structures shall be appropriately located on lots in order to provide safe and convenient access for servicing, fire protection, and any required off street parking or loading.

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

1. A site plan on a map, to scale, showing boundaries and the location, dimensions, and purpose of all buildings and structures, existing and proposed;
2. The location and dimensions of all contiguous streets or roads, on site utility easements 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; and
4. A general description of the buildings and structures on contiguous lands.
5. A lighting plan, if applicable, that shows the locations and type of lighting proposal.

C. Hazardous Materials. Bulk storage of toxic substances or hazardous materials within the Town of Edgewood shall comply with all State and Federal Regulations.

D. Home Occupations. Any activity defined by this Ordinance as a home occupation 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 except for one, non illuminated sign that is no larger than five square feet in area;
3. Exterior storage of materials and/or equipment necessary for the home occupation is allowed and only if it is surrounded by a solid wall or fence sufficient to provide an adequate visual barrier to any contiguous residential properties;

4. Not more than 25 percent of the floor area of the dwelling unit shall be devoted to the home occupation.
5. No equipment or process shall be used in a home occupation which creates a nuisance such as noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses, off the premises.

E. Mobile Home Installation. Regardless of any setback regulations provided in this Ordinance, no mobile homes shall be located within 20 feet of any other dwelling unit. Mobile homes shall be limited to residential use only, unless otherwise provided in this Ordinance. Prior to occupancy, mobile homes shall be connected to adequate utilities, provided with skirting of a durable material, and stabilized and anchored in accordance with regulations promulgated by the Manufactured Housing Act and with the regulations made pursuant to that act.

F. Manufactured Housing Installation: Housing which qualifies for Manufactured Housing defined herein shall be installed on a permanent foundation as defined herein, and ground set as also defined herein.

G. Political Signs. Signs relating to a political campaign prior to an election may be permitted on any private lot provided such signs shall not be placed more than 60 days prior to the election and shall be removed within 10 days following the election, except the winners of primary elections may leave signs up until 10 days following general elections.

H. 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.

## **SECTION 6. 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 EDGEWOOD ZONING MAP 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 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 Board with the advice of the Planning Commission.

D. Multiple Zoned Lots. Circumstances may justify the need to designate more than one zone district on a single lot. In such cases, zone district boundaries within a multiple zoned lot shall be more fully described in the 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 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 7. R-1 CONVENTIONAL 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 dwelling unit per lot.

. Permissive Uses. Any of the following permissive uses are allowed in this zone district:

1. One 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 day care 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 24 hours.
6. Public utility structure, provided its location is based on an appropriate master plan that has been approved by the Town Board; and
7. Public parks and recreation areas.

C. Conditional Uses. The following uses may be allowed in this zone district only upon permit granted by the Planning Commission in accordance with this Ordinance:

1. Boarding, rooming, lodging house or guest houses;

2. Church or other religious building used as a place of worship; and
3. School, public or private, with incidental facilities, provided that a development plan for the site has been approved by the Town Board.
4. Mobile Homes which comply with the definitions of Mobile Homes as a covenantal dwelling unit.. Mobile Home shall be used only as a second or accessory dwelling to the site built primary dwelling, for a period of 2 years, and may be renewable.

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

1. Minimum lot size shall be one (1) acre, exclusive of roadway easements.
2. Setbacks shall be maintained as follows:
  - a. Front setback shall be no less than 30 feet;
  - b. Side setback shall be no less than 10 feet, except in cases of corner lots, where the secondary street side setback shall be no less than 20 feet;
  - c. Rear setback shall be no less than 10 feet.
3. Off - street parking space is required by this Ordinance.
4. Maximum building height shall be 36 feet to the highest point of the house measured to 6" below the lowest finished floor, not including basement.

#### **SECTION 8. R-2 CLUSTER RESIDENTIAL 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. Multiple dwellings are allowed in this district, and may include apartments, townhouses, and condominiums.

B. Permissive Uses. Any of the following permissive uses are allowed in this zone district:

1. All uses permissive in the R-1 zone district; and
2. Multiple dwellings, provided they are connected to adequate water and sewer systems.

C. Conditional Uses. The following uses may be allowed in this zone district only upon permit granted by the Planning Commission in accordance with this Ordinance:

3. Retirement Centers and Assisted Care Institutions.

C. Conditional Uses. The following uses may be allowed in this zone district only upon permit granted by the Planning Commission in accordance with this Ordinance:

1. All uses conditional in the R-2 zone district;
2. Florist and Gift Shops
3. Any other use which the Planning Commission deems appropriate;

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

1. Minimum lot size shall be 6,500 square feet per dwelling unit;
2. Setbacks shall be maintained as follows:
  - a. Front setback shall be no less than 15 feet;
  - b. Side setback shall be no less than 10 feet;
  - c. Rear setback shall be no less than 15 feet; and
3. Adequate off-street parking space is required by this Ordinance.

#### **SECTION 10. R-4 MOBILE HOME RESIDENTIAL ZONE.**

A. Intent. The purpose of this zone district is to provide for the development of subdivisions for mobile homes. Density shall be limited to one dwelling unit per lot, with a minimum lot size of 1 acre.

B. Permissive Uses. Any of the following permissive uses are allowed in this zone district:

1. One 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 day care 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 24 hours.
6. Public utility structure, provided its location is based on an appropriate master plan that has been approved by the Town Board; and
7. Public parks and recreation areas.

C. Conditional Uses. The following uses may be allowed in this zone district only upon permit granted by the Planning Commission in accordance with this Ordinance:

1. Boarding, rooming, lodging house or guest houses;
2. Church or other religious building used as a place of worship; and
3. School, public or private, with incidental facilities, provided that a development plan for the site has been approved by the Town Board.

D. District Standards. The following land use performance standards apply to this zone district:

1. Minimum lot size shall be one (1) acre, exclusive of roadway easements.
2. Setbacks shall be maintained as follows:
  - a. Front setback shall be no less than 30 feet;
  - b. Side setback shall be no less than 10 feet, except in cases of corner lots, where the secondary street side setback shall be no less than 20 feet;
  - c. Rear setback shall be no less than 10 feet: and
3. Off - street parking space is required by this Ordinance.
4. 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 11. C-B 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. Any of the following permissive uses are allowed in this zone district:

1. All uses permissive in the R-1 and R-4 Zone District.
2. Retail commercial establishments;
3. General and professional offices;
4. Business and personal services; and
5. Banking and financial services.
6. Model Home Centers for Mobile, Modular, or Site Built Houses, for up to a total of 3 units.
7. Full Services and Fast Food Restaurants

C. Conditional Uses. The following uses may be allowed in this zone district only upon permit granted by the Planning Commission in accordance with this Ordinance:

1. All uses permissive in the R-2 and R-3 zone district;
2. All uses conditional in the R-1, R-2 and R-3 zone district;
3. Hotels and motels;
4. Bars and Lounges;
5. 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.
6. Kennel, veterinary hospital, animal grooming parlor, or pet sales store; and
7. 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.

8. Model home centers for mobile, modular, or site built homes having four or more units onsite.
9. Recreational Vehicle Campgrounds, provided that:
  - a. They fully comply with all State requirements regarding water, liquid waste, electricity, gas, and telephone service.
10. Any commercial retail establishments, which require outdoor storage of stock and/or materials.
  - a. Outdoor storage of stock and/or materials shall provide adequate visual screening.

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 20 feet;
  - b. Rear setback shall be no less than 15 feet; and
3. Off-street parking space is required by this Ordinance.
4. Landscaping plan must be in compliance with any landscaping ordinances adopted by the council.
  - a. Commercial developments must be in compliance with landscaping buffer zone requirements when adjacent to residentially zoned property.

## **SECTION 12. MP- MASTER PLAN ZONE.**

A. Intent. The purpose of this 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. The boundaries of this zoning district shall be determined on a case-by-case basis following the amendment procedures provided in this Ordinance. Special conditions may be imposed by the Council, including phasing, time limits, or arrangements for system improvements. The Council may not grant a zone change for establishment of a Master Plan District unless:

1. The land uses proposed within the Master Plan District are compatible with the Comprehensive Plan of the Town of Edgewood.



2. The integrity and character of the area and the utility and value of the property and the contiguous zoning districts is preserved or enhanced.
3. The proposal will not be detrimental to the public health, safety, or general welfare of the Town of Edgewood.

B. Definitions. For purposes of this Section, the following definitions shall apply:

1. "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.
2. "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.
3. "Covenant" means a private legal restriction on the use of land, attached to the deed to the property or otherwise formally recorded. Covenants are typically used in the establishment of a subdivision to restrict the use of property in a specific manner.
4. "Developer" means any person, corporation, organization, or other legal entity constructing or creating improvements to the land.
5. "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. An approved master plan provides a means for the developer to obtain an approval from the Town for land use for the proposed development and for standards for each phase of such proposed development.
6. "Residential Density" means the average number of dwelling units per acre of land intended for such use on designated buildable area, excluding dedicated public right-of-way.
7. "Commercial Density" means the average floor area ratio of commercial buildings to designated buildable areas, excluding dedicated public rights-of-way.

C. Permitted and Conditional 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-2, R-3, R-4, C-B, MP and S-U; and uses allowed upon obtaining a conditional use permit are described in the zoning districts

R-1, R-2, R-3, R-4, MP and S-U which are attached and made a part of this Ordinance. All uses indicated as permitted by right or as a conditional use shall be in full compliance with all other regulations or standards contained in this Ordinance. Uses not enumerated in the above zoning districts are not necessarily excluded.

D. Pre-Application. Any request for a zone change to establish a Master Plan Zone shall be initiated through a pre-application conference between the developer and appropriate staff and officials from the Town of Edgewood. The pre-application conference is intended to create a dialogue and to build a common understanding about the proposed development.

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

1. A conceptual development 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 general 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, a schematic utilities plan, and proposed sites for common areas, community facilities, and conservation easements.
2. A proposed phasing schedule which provides a general description of each phase of the development over time. Each phase of development shall be subject to a separate and final approval of the Council as part of the subdivision plat review process or as a detailed site plan prior to construction.
3. 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).
4. A written statement regarding the anticipated impact of the Master Plan Zone on the surrounding community with respect to transportation, sources for water supply, disposal of solid and liquid waste, stormwater runoff, and population growth with specific reference to schools.
5. 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.

6. Proposed draft wording for documents establishing homeowners associations or other legal entities responsible for control over common areas and facilities. Such documentation's must be finalized as part of the subdivision review process.

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 more than 25 acres.
2. All development within the Master Plan Zone must be served by adequate water and sewer services.
3. Residential density of singular dwelling units shall not exceed six dwelling unit per acre, and the residential density for multiple dwelling units shall be limited to a maximum floor area ratio of 0.5 within a delineated sector of the Master Plan Zone. 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.
4. Building height, setback, lot size, off-street parking and loading, and sign controls within the Master Plan Zone shall be designated on a case-by-case basis and effected at the time of subdivision or site plan approval.
5. Accessory buildings shall require conditional use permits.
6. Any common area or areas within the Master Plan Zone which are used for density calculations shall be protected by covenants forbidding partition for future sale and housing or commercial development, providing maintenance responsibility for the common area, and providing for funding such maintenance.
7. 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. Minor changes to an approved MasterPlan District may be approved by the Council if they are consistent with the original development plan.
8. Approved design specifications for development in a Master Plan Zone shall be given precedence at the time of subdivision plat or site plan review.

## **SECTION 13. S-U SPECIAL USE ZONE.**

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 Board following the amendment procedures provided in this Ordinance.

Special conditions may be imposed by the Town Board giving consideration to any recommendation of the Planning Commission. The Town Board 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 Board following a recommendation by the Planning Commission.

D. **Designated Uses.** A Special Use Zone district may be established only for the following uses designated by the Town Board:

1. Airport, subject to the regulations of State or Federal aviation agencies;
2. Fairgrounds, recreational complex, stadium;
3. Fuel wholesalers and storage (e.g., gasoline and other petroleum products provided that all facilities shall not be placed within 300 feet of any residential structure unless sufficient blast, explosion, or fire confinement

structures are installed in accordance with State regulations;

4. Government facilities;
5. Manufacturing, compounding, assembling or treatment of products which are made from raw or processed materials in accordance with State or Federal environmental pollution standards;
6. Mobile Home Park, subject to the following regulations:
  - a. A mobile home park shall be served by adequate water and sewer systems and constructed to specifications acceptable to the Town of Edgewood;
  - b. Maximum density shall be Four (4) mobile homes per acre;
  - c. Each mobile home shall be situated on a space that is no less than 5,000 square feet;
  - d. At least two off-street parking spaces per mobile home are required;
  - e. No mobile home shall be located within 20 feet of any other mobile home or structure. A mobile home shall be at least 25 feet from a public right-of-way and shall be no less than ten feet from any property line of the mobile home park;
  - f. A common area for recreational use by park residents shall be developed and situated in a central location within the mobile home park. At least 5,000 square feet of usable open space shall be designated for the common area per mobile home in the mobile home park; and
  - g. A mobile home park shall have at least one entrance drive from a public road or street, and access to individual units shall be from private drives within the mobile home park. private drives shall be no less than 30 feet in width;

7. Self storage mini warehouses provided that:
  - a. All storage space is within completely enclosed single story buildings not to exceed 12 feet in height;
  - b. A solid perimeter wall or fence at least six feet high shall enclose the entire area containing the storage buildings in order to provide controlled access to the premises;
  - c. The site shall not exceed two acres in size; and
  - d. There shall be adequate on site driveways to accommodate vehicular access to individual storage units.

#### **SECTION 14. SITE DEVELOPMENT STANDARDS.**

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 within 100 feet of 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. Front, side, and rear setbacks;
3. Floor area ratio; and
4. Maximum height of structures.

#### **SECTION 15. WELL HEAD PROTECTION OVERLAY ZONE.**

A. **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.

B. **Definitions.** For purposes of this Section, the following definitions shall apply:

1. "Abandoned Well" means a wellhead whose 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. "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.
3. "Groundwater" means water found beneath the land surface in a saturated zone.
4. "Hazardous Materials" means substances defined in Section 101(14) of the Federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or as regulated under Subtitle C of the Federal Resource Conservation and Recovery Act (RCRA).
5. "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 districts.
6. "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 (10) per centum or more

beneath the surface of the ground. This definition does not include septic tanks.

7. "Wellhead" means the structural element of a constructed water well which is the source of a groundwater supply system.

C. 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, and shall be available for public inspection at the Town Clerk's Office.
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.

D. 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 granted by 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.

E. 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 deicing 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.

F. 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 that use is found by the Council to be 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 which is determined by the Council.

G. Amortization of Nonconforming Prohibited Uses. Nonconforming prohibited uses pose significant threats to groundwater within the Wellhead Protection Overlay Zone. A time limit, or amortization period, shall be imposed upon certain nonconforming prohibited uses located within 500 feet of 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 nonconforming prohibited uses located within 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 deicing 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 nonconforming prohibited uses located within 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.

H. 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 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.

I. Administration. Primary responsibility for administering this Section shall be assigned to the Zoning Officer, who may be assisted by other municipal employees as appropriate. The following duties shall be performed by the Zoning Officer 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 16. 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 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 17. 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 space per 200 square feet of floor area;
2. Bowling alleys require four spaces per alley;
3. Clubs, lodges, and fraternal organizations require one space per 100 square feet of floor area;
4. Full service and Fast Food Restaurants, bars, and lounges require one space per 100 square feet of floor area;
5. Industrial, manufacturing, and wholesaling establishments require one space per two employees on the largest shift;
6. Laundromats require one space per three washing machines;
7. Medical clinics and dental offices require five spaces per doctor;
8. Motels and other lodging facilities require one space per unit and one

space per two employees on the largest shift;

9. Places of public assembly, including churches, community centers, theaters, and gymnasiums require one space per four seats when fully occupied; and
10. Residential buildings and mobile homes require two 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 to the required off-street parking requests for development in Zones R-2, R-3, C-B and SU.

1. All parking areas must have access to a public right-of-way
2. All driveway entrances shall be at least 30 feet wide to facilitate vehicular turning into the parking area; and
3. Each parking space shall consist of an area not less than 9 feet by 20 feet.

#### **SECTION 18. NIGHT SKY PROTECTION ACT**

A. Night Sky Protection Act. All developments must be in compliance with the Night Sky Protection ordinance as adopted by the County of Santa Fe..

#### **SECTION 19. ADMINISTRATION.**

A. Administrative Official. A Zoning Officer shall be appointed by the Town Board to administer the provisions of this Ordinance. The Zoning Officer may also serve in some other capacity as an employee or appointed official of the Town of Edgewood.

B. Inspection. The Zoning Officer 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 Zoning Officer shall provide for on site inspections and other relevant information which may be requested by the Town Board or the Planning Commission as necessary to carry out the purpose of this Ordinance.

C. Violations: Complaints and Notifications. The Zoning Officer 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 Zoning Officer who shall immediately investigate the complaint to determine if a violation of this Ordinance is found to exist. Whenever the Zoning Officer finds probable cause to believe that a violation of this Ordinance exists, whether acting on independent initiative or in response to a complaint, the Zoning Officer shall notify the person responsible for the alleged violation in writing.

The notification shall order the necessary correction to be made within 60 days following the date of notification. 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 Zoning Officer shall maintain an office to supply the public with information concerning this Ordinance and shall maintain the official EDGEWOOD ZONING MAP in an updated form. A "Zoning Action File" shall be maintained and shall contain records which include the following categories:

1. Amendments to the Zoning Ordinance and Maps;
2. Building Permit Applications (with Elevation Certificates as appropriate);
3. Conditional Use Permits;
4. Mobile Home Installations;
5. Nonconformance Certificates;
6. Site Development Plans;
7. Variances allowed under this Ordinance;
8. Zoning Appeals; and
9. Zoning Violations.

## **SECTION 20 DEVELOPMENT REVIEW.**

A. Requirement for Local Review. For the purpose of this Ordinance, no building or structure shall be erected nor mobile home installed upon any premises within the Town of Edgewood without being reviewed by the Zoning Officer. Building permit applications shall be submitted to the Zoning Officer for review and signature before applying for a State Building Permit.

Mobile home installation permits shall be reported to the Zoning Officer upon issuance to the mobile home owner. Elevation Certificates are required for all structures built or placed in designated flood plains within the Town.

B. Review Process and Fee. An administrative fee must be paid to the Town of Edgewood prior to any consideration in the development review. The Zoning Officer 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 Zoning Officer shall also review development proposals for compliance with the National Flood Insurance Program. All State Building Permit applications shall be returned to the applicant within three working days after receipt by the Zoning Officer.

## **SECTION 21 NONCONFORMANCE CERTIFICATE.**

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 nonconformity's to continue until they are removed, but not to encourage their survival. Permissive uses under this ordinance shall not be defined as non-conformities.

B. **Nonconformance Certificate.** Nonconformities, upon discovery, shall be issued a Nonconformance Certificate by the Zoning Officer in accordance with the procedures established in this Ordinance. Upon receipt of a written notification from the Zoning Officer, it shall be the responsibility of owners of nonconforming property to apply to the Zoning Officer for a Nonconformance Certificate within 60 days after the date of notification. Failure to accept the Nonconformance Certificate under the provisions of this Ordinance 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 building 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 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 50 percent of its replacement cost at the time of destruction, then restoration must be for a permitted 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 building permit has been issued prior to enactment of this Ordinance, or amendments hereto.

## **SECTION 22 CONDITIONAL USE PERMIT.**

A. **Permit Required.** Conditional uses that are established by this Ordinance shall not be allowed except upon the review and approval for a permit issued by the Planning 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 Zoning Officer on a prescribed application form obtainable at the Town offices. The Zoning Officer shall transmit the completed application and any supplementary information to the Planning Commission for review and consideration at their next scheduled meeting. To the extent possible, all contiguous property owners shall be notified of the Planning Commission meeting at which the Conditional Use Permit application will be considered for approval.

C. **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. Stormwater drainage control and flood protection with reference to the National Flood Insurance Program;
4. Solid waste management systems and the potential for hazardous waste;
5. The economic, noise, glare, or odor effects of the conditional use on contiguous properties; and
6. General compatibility with contiguous properties and other properties in the area.

D. **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 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 Commission may require a renewal of the original Conditional Use Permit. Significant change shall be determined by the Planning 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 23 VARIANCES.**

A. **Definition.** The Planning Commission may approve a Variance from the strict application of area, height, dimension, distance, setback, and off-street parking requirements of this Ordinance. A Variance may be approved in the case of exceptional physical conditions where the strict application of the requirements of this Ordinance would result in a practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of land or building.

B. **Application.** Any request for a Variance shall be submitted with an administrative fee to the Zoning Officer on a prescribed form obtainable at the Town offices. The Zoning Officer shall transmit the completed application and any supplementary information to the Planning Commission for review and consideration at their next scheduled meeting. To the extent possible, all contiguous property owners shall be notified of the Planning Commission meeting at which the Variance application will be considered.

C. **Requirements.** The Planning Commission may impose any necessary requirements in approving a Variance to assure that the Variance:

1. Will cause no significant hazard, annoyance, or inconvenience to the owners or occupants of nearby property; and
2. Will not significantly change the character of the neighborhood or reduce the value of nearby property.

## **SECTION 24 AMENDMENTS.**

A. **Authority.** The Town Board may amend or change any of the regulations, procedures, or zone district boundaries established by this Ordinance.

B. **Application.** Any request for an amendment to this Ordinance shall be submitted with an administrative fee to the Zoning Officer 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 Zoning Officer shall transmit the completed application and any supplementary information to the Planning Commission for review at their next scheduled meeting.

The Planning Commission shall prepare and transmit a recommendation in writing to the Town Board 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 Commission meeting at which the zone change will be reviewed for recommendation to the Town Board.

C. **Public Hearing.** Upon receipt of the written recommendations of the Planning Commission, the Town Board shall call for a public hearing in which to make its decision on an application for amendment to this Ordinance.

Notification of the time and place of the public hearing shall be published in a newspaper of general circulation in the Town at least 15 days prior to the hearing. The Town Board shall conduct the public hearing, at which all parties shall have an opportunity to submit data, views, or arguments, orally or in writing, and to examine witnesses testifying at the hearing. A record of the public hearing shall be kept.

D. **Notification by Mail.** Whenever a zone change is proposed for an area of one block or less, notice of the public hearing shall be mailed by certified mail, return receipt requested, to the owners of land within the area proposed to be changed by a zoning regulation and within 100 feet, excluding public right-of-way, of the area proposed to be changed by a zoning regulation. Whenever a zone change is proposed for an area of more than one 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 100 feet, excluding public right-of-way, of the area proposed to be changed by a zoning regulation.

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.

## **SECTION 25 APPEALS.**

A. **Right of Appeal.** Any person aggrieved by a decision of the Zoning Officer or the Planning Commission in carrying out the provisions of this Ordinance may appeal that

decision to the Town Board. 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.

B. Application. Any appeal following a decision of the Zoning Officer or the Planning Commission shall be made in writing on prescribed forms obtainable at the Town offices, upon payment of an administrative fee, and submitted to the Zoning Officer. Any appeal not submitted within 30 days after the decision which is the subject of the appeal shall not be considered by the Town Board. The Zoning Officer shall transmit all papers involved in the proceedings to the Town Board within seven days after the receipt of the appeal application.

C. Public Hearing. The decision on an appeal shall be made by the Town Board 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 15 days prior to the hearing. The Zoning Officer shall notify the applicant, members of the Planning Commission, and a representative of the opponents, if any, of the hearing date.

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

E. Decision. An appeal shall be decided within 60 days of the date of application of the appeal. A majority vote of the members of the Town Board is required to reverse, change, or affirm a decision made by the Zoning Officer or the Planning Commission.

## **SECTION 26 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 an 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 as follows:

- |    |                             |       |
|----|-----------------------------|-------|
| 1. | Amendment to this Ordinance | \$100 |
| 2. | Appeal                      | \$100 |

3.	Conditional Use Permit	\$50
4.	Development Review	\$50
5.	Variance	\$25

**SECTION 27 PENALTIES.**

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 90 days, or both such fine and imprisonment, as authorized in 31.C. NMSA 1978. Any violation continued for a period of 30 days after conviction shall be prosecuted and treated as a separate offense.

**SECTION 28 SEVERABILITY.**

The provisions of this Ordinance shall be deemed to be severable, and should any part of this Ordinance be declared by the courts 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 29 EFFECTIVE DATE.**

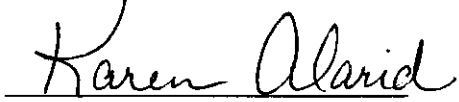
PASSED, APPROVED AND ADOPTED this 1<sup>st</sup> day of September, 1999.

This Ordinance shall become effective on the 8th day of September, 1999.

  
Mayor, Town of Edgewood

(SEAL)

ATTEST:

  
Town Clerk