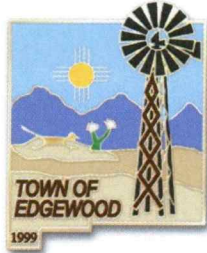


**This Subdivision  
Ordinance No. 2014-03  
has been rescinded as  
of August 16, 2017**

**Look at Subdivision  
Ordinance No. 2017-02  
for the current  
Ordinance.**

# TOWN OF EDGEWOOD



## SUBDIVISION ORDINANCE

**NO. 2014-03**

Adopted August 6, 2014

Amended February 4, 2015

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**ORDINANCE NO. 2014-03**

**AN ORDINANCE ADOPTING REVISED SUBDIVISION REGULATIONS, REQUIREMENTS, AND PROCEDURES FOR THE TOWN OF EDGEWOOD, NEW MEXICO, PROVIDING FOR PENALTIES FOR ANY VIOLATION THEREOF, AND REPEALING ORDINANCE NO. 2005-14. BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF EDGEWOOD, NEW MEXICO, AS FOLLOWS:**

**SECTION 1. TITLE.**

This ordinance may be cited as the “Subdivision Ordinance.”

**SECTION 2. AUTHORITY AND JURISDICTION.**

**A) AUTHORITY.** This ordinance is adopted pursuant to §3-19-6 NMSA, 1978.

**B) JURISDICTION.** This Ordinance is designed to accomplish the procedures for the processing, consideration, and filing of plats lying within the corporate boundaries of the Town of Edgewood (hereinafter, the “Town”), and for property within the extraterritorial zone of the Town boundaries, which area is within the Town planning and platting jurisdiction pursuant to §3-19-5 and §3-20-5 NMSA 1978. No Subdivision of any land shall hereinafter be effected within the Town’s area of jurisdiction except in accordance with the provisions of this Ordinance.

**SECTION 3. PURPOSE.**

This Ordinance is intended to create orderly and harmonious development of the Town and to establish conditions favorable to the health, safety, convenience, and general welfare of citizens of the Town and its area of jurisdiction.

The provisions of this Ordinance are designed to achieve adequate provision for light and air, public open spaces, water supply, drainage, sanitation including sewer facilities; economy in governmental expenditures and efficiency in governmental operations; safe, convenient circulation of people, goods, and vehicles; accurate and complete surveying, and preparation and recording of plats thereof; safety and suitability of land for contemplated development; and coordination of land development in accordance with orderly physical patterns as stated in official plans, policies, and such ordinances and codes in furtherance of plans and policies as may have been or may be hereafter adopted by the Town.

**SECTION 4. INTERPRETATION.**

The provisions of this Ordinance are intended to be minimum requirements to carry out the purpose stated herein and are not intended to interfere with any other laws, covenants, or ordinances. Whenever any of the provisions of this Ordinance are more or less restrictive than other laws, covenants, or ordinances, then whichever is more restrictive shall govern.

**SECTION 5. 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. **ADJACENT PROPERTY.** The discrete residences, Lots or tracts which are located within 300 feet of the boundaries of the Lot(s) or tract(s) which are included within the area of a proposed Subdivision.
  2. **ALLEY.** A public or private thoroughfare which affords only a secondary means of access to abutting property.
  3. **BLOCK.** Property bounded on one side by a Roadway/Street and on the other sides by a Roadway/Street, waterway, including irrigation facilities, unsubdivided areas, or other definite barriers.
  4. **CENTERLINE.** The line halfway between the Roadway/Street Public Right-of-Way lines.
  5. **COMPREHENSIVE PLAN.** A Comprehensive Plan or any of its parts, adopted by the governing body, for the physical development of the area within the planning and platting jurisdiction of the Town for the general purpose of guiding and accomplishing coordinated and harmonious development.
  6. **CUL DE SAC.** A short Roadway/Street intersecting another Roadway/Street and terminating in a vehicular turn-around.
  7. **DRIVEWAY.** Any private road providing access from only one (1) Lot or private property to a Roadway/Street.
  8. **EASEMENT.** An acquired or granted right of use which one person may have in the land of another.
  9. **FINAL PLAT.** See PLAT, FINAL.
  10. **FIRE CHIEF.** An individual certified by the State of New Mexico with authority to review plats of subdivision for compliance with applicable regulations delineated by the currently adopted Fire Code within the Town.
  11. **IMPROVEMENTS.** Changes to the land and facilities necessary to prepare it for building sites including, but not limited to: grading, filling, Roadways/Streets, sidewalks, sanitary sewer and water system facilities, lines, and appurtenances, irrigation, drainage and flood control facilities, Roadway/Street lighting, and other facilities used by the public or used in common by owners of Lots within a Subdivision.
  12. **LOT.** A tract or parcel of land which, exclusive of Public Right-of-Way, is:
    - a. Placed on the county clerk’s records in accordance with this ordinance or predecessor ordinances, any applicable county subdivision ordinance or predecessor ordinances, or the laws of the State of New Mexico, whichever had jurisdiction at time of filing; or,
    - b. Held in separate ownership, as that parcel was shown on the records of the county assessor, prior to October 2, 1950, effective date of passage of a county resolution covering subdivision.
  13. **MAJOR SUBDIVISION.** Any Subdivision which does not qualify as a Minor Subdivision, including all Subdivisions which will result in four (4) or more Lots on any single Lot which formerly existed, have infrastructure needs, or will result in Lots which are not accessible from existing Roadways/Streets. All Subdivisions

shall be treated as Major Subdivisions unless determined by the Town to be a Minor Subdivision.

14. **MINOR SUBDIVISION.** Any Subdivision resulting in no more than three (3) Lots on any single Lot which formerly existed, provided such single Lot was in existence in its current form a minimum of 365 days prior to the date of the application, has no infrastructure needs, and all resulting Lots must be accessible from existing Roadways/Streets. Only those Lots which meet all of the conditions set forth herein are eligible to be subdivided as a Minor Subdivision.
15. **MONUMENT.** One or more Permanent Survey Monuments and/or Subdivision Control Monuments.
16. **PERMANENT SURVEY MONUMENT.** A cap referenced to the New Mexico Coordinate System having the land surveyor's registration number inscribed thereon.
17. **PLANNING & ZONING COMMISSION (COMMISSION).** The body appointed by the Mayor with consent of the Governing Body pursuant to the planning commission ordinance, with the power, authority, jurisdiction and duty to enforce and carry out the provision of law relating to planning, platting and zoning as set forth therein; and other power, authority, jurisdiction and duty incidental and necessary to carry out the purpose of Section 3-19-1 through 3-19-12 NMSA 1978; and to carry out the requirements of Articles 19, 20, and 21 of Chapter 3 of NMSA, 1978.
18. **PLANNING & ZONING OFFICIAL.** That person authorized by the Town to administer the provisions of this ordinance.
19. **PLAT.** A map, chart, survey, plan or Replat certified by a registered land surveyor which contains a description of a subdivided land with ties to Permanent Survey Monuments, said Plat to be placed on record.
20. **PLAT, FINAL.** The final map of all or a portion of a Subdivision or site plan conforming with the requirements stated herein, that is presented to the proper review authority for final approval.
21. **PLAT, PRELIMINARY.** A map of a Subdivision of land conforming with the requirements stated herein, that is submitted to the proper review authority for purposes of preliminary consideration and approval; the Subdivider achieves vested rights to Subdivision upon Preliminary Plat approval.
22. **PLAT, SKETCH.** A sketch or drawing of a Subdivision Plat conforming with the requirements stated herein, and used in the pre-application procedure prior to submission of the Preliminary Plat for a Subdivision.
23. **PRELIMINARY PLAT.** See PLAT, PRELIMINARY.
24. **PRIVATE LANE.** An Easement used for ingress or egress by persons or vehicles which is not a Public Right-of-Way and which provides access between a Public Right-of-Way and more than one (1) Lot.
25. **PUBLIC RIGHT-OF-WAY.** That public area of land deeded, dedicated by plat, or otherwise acquired by any unit of government and owned in fee for the purposes of movement of vehicles, pedestrian traffic, and/or for conveyance of public utility services, irrigation, or drainage.
26. **REPLAT.** The combination or recombination of portions of previously subdivided and recorded Lots where the total number of Lots is not increased and the resultant Lots comply with or exceed the requirements of applicable Town ordinances.

27. **ROADWAY/STREET.** That portion of a Public Right-of-Way or Private Lane which is improved, designed, or ordinarily used for vehicular use, but not including Driveways, sidewalk, berm, or shoulder even though such sidewalk, berm, or shoulder is used by persons riding bicycles or other human-powered vehicles.
28. **SKETCH PLAT.** See PLAT, SKETCH.
29. **SUBDIVIDER.** Any person creating a Subdivision, including the owner, equitable owner, or any authorized representative.
30. **SUBDIVISION.**
  - a. The division of any Lot or tract of land, whether a Major Subdivision or Minor Subdivision, within the corporate boundaries of the Town, by metes and bounds description, into two (2) or more parts for the following purposes:
    - i. Sale for building purposes or lease;
    - ii. Laying out a municipality or any part thereof;
    - iii. Adding to a municipality;
    - iv. Laying out Subdivision Lots;
    - v. Resubdivision; or
    - vi. Any division of land created by court order.
  - b. The division of land within the Town extraterritorial planning and platting jurisdiction, into two (2) or more parts by metes and bounds description into tracts of less than five (5) acres in any one (1) calendar year.
31. **SUBDIVISION CONTROL MONUMENT.** A metal stake pipe or other approved marker which identifies position within a subdivided area and which is referenced to a Permanent Survey Monument.
32. **TOWN ENGINEER.** A professional engineer registered in accordance with the laws of New Mexico, and employed or contracted by the Town to perform work as directed.
32. **VACATION/VACATE.** The act of cancelling, rescinding, or rendering void a prior decision, order, or grant of legal right.
34. **WAIVER.** Foregoing from one (1) or more of the requirements of this Ordinance, upon making certain findings which indicate that a Waiver is appropriate and will not conflict with the intent of this Ordinance and is not detrimental to the health, safety, and welfare of the public.

## **SECTION 6. GENERAL INFORMATION AND GUIDANCE.**

### **A) PLATTING PROCEDURE**

1. Every applicant desiring to subdivide land into two (2) or more Lots shall furnish to the Planning & Zoning Commission a Plat of the proposed Subdivision prepared by a surveyor registered and licensed by the State of New Mexico and shall comply with the requirements of this Ordinance. Upon request, the Planning & Zoning Official shall furnish the applicant with basic information on the requirements.
2. Any proposed Subdivision, Replat, or vacation of a Plat occurring within the corporate limits of the Town shall conform to the requirements of this Ordinance and shall be submitted for review and approval by the Planning & Zoning Commission prior to filing with the county clerk, before beginning improvement activities or negotiating sale or lease of any Lot within the proposed Subdivision.
3. Any proposed Subdivision, Replat, or vacation of Plat occurring outside the corporate limits but within the three (3) mile planning and platting jurisdiction of the Town shall

conform to the requirements of this Ordinance and, as supplemented by the provisions of the appropriate county land subdivision regulations, and shall be submitted for concurrent review and approval by the Planning & Zoning Commission and the appropriate county commission prior to filing with the county clerk, before beginning improvement activities or negotiating sale or lease of any Lot within the proposed Subdivision.

**B) CONSIDERATIONS FOR SUBDIVISION PLATTING.** In order to provide guidance to applicants concerning acceptable proposed Plats, the following matters are fundamental:

- 1. Suitability.** The Planning & Zoning Commission shall not approve a Subdivision of land if, from adequate investigations, it has been determined that in the best interest of the public health, safety or welfare, the land is not suitable for platting and development purposes of the kind proposed.
  - a. Geography.** Land subject to flooding, land deemed to be topographically unsuitable, and land that is for other reasons uninhabitable, all as determined by the Planning & Zoning Commission shall not be platted for residential occupancy or for such other uses as it may increase danger to health, safety, or welfare or aggravate erosion or flood hazard.
  - b. Services.** The availability of adequate, surfaced Roadways/Streets, adequate emergency access, fire protection, police protection, refuse service, public schools, parks and recreation facilities, and utility services shall all be weighed in considering the subdividing of land. The foregoing services are not all necessarily required; and the nature and extent of these services may affect the Planning & Zoning determination of suitability.
- 2. Sewer.** Any Subdivision or Replat proposal which involves an extension of sanitary sewer lines will require a statement of sewer availability from the Town of Edgewood.
- 3. Conformance of proposal to the Comprehensive Plan and other Land Use Plans.** Any Subdivision or Replat proposal which does not conform with goals, policies or other provisions of the Comprehensive Plan or other officially adopted land use plans shall not be approved.

**C) DISCLOSURE OF OWNERSHIP INTERESTS AND APPOINTMENT OF AGENTS.** Any applicant who proposes to subdivide land within the planning and platting jurisdiction of the Town of Edgewood shall be required to disclose the ownership interests in the property proposed to be subdivided, as well as provide sufficient documentation of appointment of an agent, if applicable. Documentation satisfactory to the Town to meet this requirement includes:

- a.** True and correct copies of all current deeds or other documents showing any legal or equitable ownership interest in the property proposed to be subdivided; and/or
- b.** An affidavit from each person or party thus identified as having an ownership interest, other than the named applicant, affirming under oath that the person or party authorizes the named applicant to proceed before the Planning & Zoning Commission on behalf of that person or party; and/or
- c.** A notarized written appointment of agency signed by each owner of the property appointing as their representative anyone who seeks to appear on behalf of the owners before the Commission or otherwise assist in the preparation of information concerning the proposed subdivision of the property.
- d.** Failure to make full and truthful disclosure of the matters addressed in this subsection shall be deemed a material misrepresentation and shall, in addition to



any other civil or criminal penalties provided by law, result in denial of the proposed Subdivision.

#### **SECTION 7. PREAPPLICATION CONFERENCE.**

**A) APPLICATION REVIEW.** In an effort to expedite the Subdivision process, all applicants seeking to subdivide land pursuant to this Ordinance shall submit a Sketch Plat and attend a preapplication conference with the Planning & Zoning Official to discuss the procedure for obtaining approval of a Plat prior to submission of its Preliminary Plat to the Planning & Zoning Commission. The Planning & Zoning Official shall also provide guidance to the applicant regarding any perceived conflicts between the proposal and the Town Comprehensive Plan, other Town land use plans, policies, zoning, and whether the proposal qualifies as a Minor Subdivision. The Planning & Zoning Official shall advise the applicant as appropriate regarding requirements for general layout of Public Ways, Public Right-of-Ways and Roadways/Streets, dedications of land, provision of infrastructure Improvements, drainage considerations, fire protection, and similar matters, as well as the availability of existing services. The Planning & Zoning Official may assist the applicant in analyzing the development and plan for its sound integration with the Town, and may therefore give informal guidance to the applicant at a stage when potential points of difference can be more easily resolved, thus simplifying official actions and reducing unnecessary expenses and delays for the applicant. However, the guidance, advice, and recommendations of the Planning & Zoning Official shall not be construed as binding upon the Planning & Zoning Commission or the Town governing body.

**B) MINOR/MAJOR SUBDIVISION DETERMINATION.** Upon receipt of an application, the Planning & Zoning Official shall determine whether the proposal is a Minor Subdivision or Major Subdivision. The Planning & Zoning Official shall immediately forward all applications to the Planning & Zoning Commission, noting whether the application is a Major Subdivision or Minor Subdivision. If the proposal will result in a Minor Subdivision, the application shall be processed in conformance with the procedures and requirements set forth in Section 8. If the proposal will result in a Major Subdivision, the application shall be processed in conformance with the procedures and requirements set forth in Section 9 through Section 11, and shall be subject to all the requirements for subdivision set forth herein. In the event the applicant and the Planning & Zoning Official disagree as to whether the proposal is a Minor Subdivision or Major Subdivision, the application shall be forwarded on to the Planning & Zoning Commission for a determination on whether the application shall be processed as a Minor Subdivision or Major Subdivision.

#### **SECTION 8. MINOR SUBDIVISIONS.**

- A)** The Planning & Zoning Commission shall review the application, hold a public hearing, and make a final determination on the application within sixty (60) days of receipt of the application by the Town.
- 1.** The application for a Minor Subdivision shall be processed and approved by the Planning & Zoning Commission as a Plat heard in a single public hearing, and no Sketch Plat need be prepared. For the purpose of ensuring consistency among subdivision documents filed with the county clerk, the technical form requirements for a Minor Subdivision Plat shall be consistent with the technical form requirements

for a Final Plat for a Major Subdivision, but shall otherwise have no bearing on the interpretation of the procedural requirements of this section.

2. The notice requirements for a public hearing on a Minor Subdivision are the same as those required for a public hearing on a Major Subdivision.
3. In the event the Planning & Zoning Commission fails to make a final determination on an application within sixty (60) days of the date the Planning & Zoning Official determines that the application qualifies as a minor subdivision, the application shall be deemed approved.

**B)** Minor Subdivisions on any given Lot and any resulting Lots following a previous Subdivision, may only be approved once annually. Any application for a Minor Subdivision which will result in a Minor Subdivision more frequently than once every 365 days shall be treated as a Major Subdivision regardless of whether the application meets all other requirements set forth herein for Minor Subdivisions.

**C) CONTENTS OF PLAT.**

1. **Disclosure of ownership interests and appointment of agents.** Any applicant who proposes to subdivide land within the planning and platting jurisdiction of the Town of Edgewood shall provide with the proposed Plat the following documents:
  - a. True and correct copies of all current deeds or other documents showing any legal or equitable ownership interest in the property proposed to be subdivided; and/or
  - b. An affidavit from each person or party thus identified as having an ownership interest, other than the named applicant, affirming under oath that the person or party authorizes the named applicant to proceed before the Planning & Zoning Commission or the Planning & Zoning Official on behalf of that person or party; and/or
  - c. A notarized written appointment of agency signed by each owner of the property appointing as their representative anyone who seeks to appear on behalf of the owners before the Commission, the Planning & Zoning Official, or otherwise assist in the preparation of information concerning the proposed subdivision of the property.
  - d. Failure to make full and truthful disclosure of the matters addressed in this subsection shall be deemed a material misrepresentation and shall, in addition to any other civil or criminal penalties provided by law, result in denial of the proposed Subdivision.
2. **Conformity with State Law.** The Plat shall be in conformity with the requirements of applicable state statutes, including but not limited to NMSA (1978), § 3-20-1, *et seq.* and NMSA (1978), § 47-6-1, *et seq.* as each may be amended from time-to-time, and shall be an accurate drawing designating specifically the land so laid out, and particularly describing the portions thereof intended to be dedicated for public use.
3. **Plat Requirements.** Unless waived by the Planning & Zoning Official, the Plat shall show at least the following:
  - a. Name of proposed Subdivision, name and address of applicant, agent and principal person preparing the Plat;
  - b. Scale and north arrow;
  - c. Proposed location and method of tie to Permanent Survey Monuments, and proposed location and type of Subdivision Control Monuments found or set;
  - d. Plat boundary lines, bearing in degrees, minutes and seconds, with basis for bearings noted on shown, distances in feet and hundredths;

- e. The location of all present property lines, projected section lines, and Roadways/Streets.
- f. Existing & proposed conditions of the site and its environs including the following:
  - 1. Present site designation or Subdivision name.
  - 2. Easements on site: location, width, and purpose.
  - 3. Zoning on the site, including all applicable setback lines.
  - 4. Number or letter to identify each proposed Lot and Block;
  - 5. Total area of the proposed Plat to the nearest one-tenth (1/10) acre.
  - 6. The title under which the proposed Subdivision is to be recorded and the name of the land planner, engineer, registered land surveyor, the applicant and the owner of the tract, with the address of each such person to which any notice is to be sent.
- 4. **Consent and Dedication.** Statements signed by the owner or agent of the owner that the Subdivision is developed with the consent and in accordance with the desire of the owner of the land; and
- 5. **Certifications.** The following persons shall make the following certifications:
  - a. Land surveyor. Certification shall be made in accordance with the laws of the State of New Mexico and applicable subdivision ordinances certifying the accuracy of the survey and Plat, the date of the survey, that the Plat was prepared by or under the supervision of the land surveyor, and that all Easements of record are identified thereon.
  - b. County Treasurer. Certification shall be made that the previous ten (10) years' property taxes due and payable have been paid.
- 6. **Disclosures.** A Disclosure Statement is not required for land in a Minor Subdivision. However, the applicant shall ensure the following language appears prominently on the front of each Minor Subdivision Plat:

*This plat was approved in conformance with the requirements of Town of Edgewood Ordinance 2014-03 as it pertains to Minor Subdivisions. The Town does not evaluate minor subdivisions with regard to the availability of water, the availability of off-site sewer services, condition of the road(s) serving the subdivision, grading and drainage requirements, or suitability of the land for building purposes or construction of onsite waste water treatment.*

- D) **Replat.** After final approval of any Minor Subdivision, no Lot shall be further subdivided or the area of the Minor Subdivision shall be modified except upon the submission of a Replat with the Planning & Zoning Official securing its approval in accordance with the procedures herein established. All Replats are subject to the requirements of this Ordinance and shall be processed consistent with the procedures set forth herein.

## **SECTION 9. MAJOR SUBDIVISIONS**

### **A) GENERAL REQUIREMENTS APPLICABLE TO ALL APPLICATIONS.**

- 1. **Application.** Upon reaching a general understanding established by the pre-application conference, the applicant shall submit to the Planning & Zoning Commission a written application, together with the original and ten (10) copies of the Preliminary Plat, improvement plans, and other supplementary material as specified herein or as may be

required. The application package shall be submitted to the Planning & Zoning Official by the deadline identified by the Town in order to allow sufficient time for publication prior to the regular meeting of the Planning & Zoning Commission at which the Plat is to be presented for review.

- 2. Plat Standards.** The Plat shall include all land owned or controlled by the applicant which is or may be suitable for or susceptible to the Subdivision or development. The Plat shall be drawn to a scale of no less than one (1) inch to one hundred (100) feet for the purposes of showing all details clearly. An adequate number of sheets, no larger than eighteen (18) by twenty-four (24) inches, shall be used to show the proposed Subdivision in its entirety. Where more than one (1) sheet is required, each sheet shall be numbered in relation to the total number of sheets involved, and each sheet shall have a small key map showing its relationship to the whole.
- 3. Review.** The Planning & Zoning Commission shall review the Plat, supplementary material, and comments by Town officials and other governmental agencies as may be appropriate. The Town may also require that restrictive covenants be filed in conjunction with the Plat, although such restrictive covenants will not be considered or acted upon by the Town. The applicant shall be responsible for all fees for engineering consultant review and approval.
- 4. Annexation and/or Rezoning.** If annexation and/or rezoning is proposed or required to accomplish the development envisioned in connection with the Plat, the Planning & Zoning Commission may consider all such matters contemporaneously as a matter of efficiency. In the event the Planning & Zoning Commission elects to consider any matters separately, the Commission shall withhold conditional approval of the Plat until such time as annexation and/or rezoning shall be officially adopted by the Town governing body.
- 5. Replat.** After final approval of any Plat, no Lot or Block shall be further subdivided or the area of any platting of any Roadway/Street or Easement established by said Plat shall be modified except upon the submission of a Replat with the Planning & Zoning Commission securing its approval in accordance with the procedures herein established. Vacation of any portion of Public Right-of-Way or public Easement requires approval of the Town governing body upon recommendation of the Planning & Zoning Commission. All Replats are subject to the requirements of this Ordinance and shall be processed consistent with the procedures set forth herein.
- 6. Acceptance of Land.** Approval of the Final Plat by the Commission shall be deemed to constitute acceptance by the Town of dedication of public rights-of-way, other proposed public Easements, and public areas shown on the Plat, provided the Final Plat is properly recorded with the appropriate county clerk and the Town, and providing that all required infrastructure and any other conditions have been met as imposed by the Commission and have been installed and approved by the Town.

## **B) CONTENTS OF PRELIMINARY PLAT.**

### **1. Submission for review.**

- a.** Any applicant proposing to subdivide land shall complete and submit a Preliminary Plat application, ten (10) sets of all application materials as required in this section for review, and the required processing fees.
- b.** The Preliminary Plat application and submittal materials shall be filed at least fifteen (15) days prior to the regularly scheduled Planning & Zoning Commission