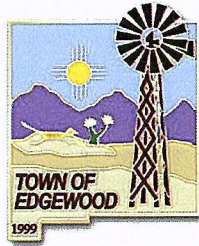


**TOWN OF EDGEWOOD**



**ZONING ORDINANCE**

**2019-03**

**ADOPTED NOVEMBER 6, 2019**

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**ORDINANCE NO. 2019-03**

**AN ORDINANCE ADOPTING A REVISED COMPREHENSIVE ZONING CODE FOR THE TOWN OF EDGEWOOD, NEW MEXICO, INCLUDING ESTABLISHING REGULATIONS, REQUIREMENTS, AND PROCEDURES, PROVIDING FOR PENALTIES FOR ANY VIOLATIONS THEREOF, AND REPEALING ORDINANCE NO. 2018-08. BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF EDGEWOOD, NEW MEXICO, AS FOLLOWS:**

**SECTION 1. TITLE**

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

**SECTION 2. PURPOSE**

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

**SECTION 3. APPLICABILITY**

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

**SECTION 4. DEFINITIONS**

- A. Word Forms.** Words used in the present tense include the future tense, and words used in the future tense include the present tense. All pronouns used in this Ordinance shall include the masculine, feminine, and neuter gender, in addition to the singular and the plural, and the context of this Ordinance shall be read accordingly. The words “shall” and “must” are mandatory, and the word “may” is permissive. All words defined herein are capitalized throughout the text of this Ordinance.
- B. Definitions.** For the purpose of this Ordinance, standard dictionary definitions are used except for certain words or phrases used herein which shall be deemed as follows:

1. **“Abandoned”** A building, structure, construction site, or property which has not been occupied for at least ninety (90) days, or a building, structure, construction site, or property where a Development Permit has been granted and construction has not been initiated by the permit holder within six (6) months of the permit being granted, or a period of work stoppage exceeding ninety (90) days has transpired and documentation from the permit holder regarding the delay is not provided. The Planning and Zoning Department reserves the right to deem any property, construction site, or structure abandoned at any time.
2. **“Abandoned Well”** means a Wellhead for which use has been permanently discontinued or which is in such disrepair that its continued use for the purpose of obtaining groundwater is impracticable or may constitute a health hazard.
3. **“Accessory”** means subordinate and incidental to a principle use or structure on the premises.
4. **“Adult Amusement Establishment”** means an establishment such as a Lounge, auditorium, bar, cabaret, concert hall, nightclub, restaurant, theater, or other commercial establishment that provides amusement or entertainment featuring one or more of the following: A live performance or act distinguished or characterized by an emphasis on the depiction, description, exposure, or representation of Specified Anatomical Areas or the conduct or simulation of Specified Sexual Activities.
5. **“Adult Cabaret”** means a type of Adult Amusement Establishment, whether a Lounge, nightclub, bar, restaurant or similar establishment, which regularly features any type of live entertainment characterized by its emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Parts, or that is intended to provide sexual stimulation or sexual gratification.
6. **“Agricultural-Related Business”** means a business operated on an agricultural parcel, related to or supportive of agricultural activities, such as blacksmithing, agricultural implement repair, and/or roadside sale of agricultural products.
7. **“Airport Imaginary Surface”** means imaginary areas in space or on the ground that are established in relation to the airport and its Runways. Imaginary areas for private use airports are defined by the Primary Surface and Approach Surface.
8. **“Airport Sponsor”** means the owner, manager, or other Person or entity designated to represent the interests of an airport.
9. **“Approach Surface”** means a surface longitudinally centered on the extended Runway centerline and extending outward and upward from each end of the Primary Surface. An Approach Surface is applied to each end of the Runway. The inner edge of the Approach Surface is the same width as the Primary Surface and it expands uniformly to a width of 450 feet for that end of a private use airport with only visual approaches. The Approach Surface extends for a horizontal distance of 2,500 feet at a slope of 20 feet outward for each one foot upward.
10. **“Basement”** means the lowest story of a Building that is located below the main floor.

11. **“Boarding, Rooming, or Lodging House”** means a Building other than a hotel, motel, or restaurant where lodging, with or without meals, is provided for compensation. Such Building shall not contain more than eight (8) guest rooms. This definition includes bed-and-breakfast enterprises.

12. **“Building”** means a structure, having a roof and intended to be used for sheltering people, animals, property, and/or business activity.

13. **“Building Height”** means the height of the Building as measured from the lowest finished floor, not including the Basement, to the highest point of the Building based on the top of the parapet of a flat-roofed Building, or the of a sloping roof.

14. **“Caretaker House”** means a secondary Building incidental to the main Building used for residential purposes by a custodian taking care of a property.

15. **“Clean fill”** means broken concrete, brick, rock, stone, glass, reclaimed asphalt pavement, or soil that is uncontaminated, meaning the fill has not been mixed with any waste other than the foregoing and has not been subjected to any known spill or release of chemical contaminants, including petroleum product, nor treated to remediate such contamination; reinforcement materials which are an integral part, such as rebar, may be included as clean fill; clean fill must be free of other solid waste, to include land clearing debris, construction and demolition debris, municipal solid waste, radioactive waste, hazardous waste or special waste.

16. **“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.

17. **“Conditional Use”** means a use, which may be or become a nuisance or hazard to neighboring properties if proper safeguards are not taken. Conditional Uses require a permit following review and approval by the Planning & Zoning Commission.

18. **“Conservation Easement”** means an easement granting a right or interest in real property that is intended to preserve specified areas predominantly in their natural condition or to prohibit Buildings and structures on land graded, revegetated, and constructed to an approved condition; retaining such areas as suitable for habitat protection, flood control, or scenic Open Space within the Town of Edgewood.

19. **“Construction Trailer”** means temporary living quarters used in conjunction with a construction project on the subject Lot by the owner-occupants of a single-family dwelling being constructed, undergoing substantial renovation or being rebuilt due to fire or natural disaster.

20. **“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.

21. **“Density”** means the number of Dwelling Units per acre of land intended for such use on designated buildable area, excluding dedicated public right-of-ways. Density shall be expressed in terms of number of Dwelling Units per gross residential acre. In determination of the maximum number of units to be allowed, any proportional fraction thereof shall be the nearest whole number.

22. **“Developer”** means any Person, corporation, organization, or other legal entity constructing or creating improvements to the land.

23. **“Dilapidated Buildings”** means any Building, structure or house upon any commercial, industrial or residential property which is ruined, damaged or is covered with ruins, rubbish, wreckage, trash or debris.

24. **“Double Frontage Lot”**: see “Lot, Double Frontage”.

25. **“Dwelling, Multiple”** means a structure containing two or more Dwelling Units.

26. **“Dwelling, Singular”** means a Dwelling Unit which is not physically connected to any other Dwelling Unit(s).

27. **“Dwelling Unit”** means any structure or part of a structure containing one or more connected rooms designed to be occupied by one family, and is used for living and sleeping purposes. A Dwelling Unit may include Manufactured Homes or site built housing.

28. **“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.

29. **“Floor Area Ratio”** means the relationship of the Floor Area to the Lot Area, computed by dividing the Floor Area by the Lot Area.

30. **“Front Lot Line”**: see “Lot Line, Front”.

31. **“Front Setback”**: see “Setback, Front”.

32. **“Hazardous Materials”** means any substances defined in the Federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), section 101 (14), any substances designated as hazardous by the EPA pursuant to CERCLA section 102(a), or as regulated under Subtitle C of the Federal Resource Conservation and Recovery Act (RCRA).

33. **“Hobby Breeder Site”** means any residence, Building or other structure used in whole or in part for keeping, raising or breeding animals registered with a nationally or internationally recognized animal registry organization. The resultant offspring are not sold for resale to commercial outlets or for the purpose of research, testing, or laboratory experimentation. This breeder site produces less than five (5) litters per year.

34. **“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.

35. **“Industrial”** refers to a series of activities focused on fabrication, manufacturing, assembly or processing of materials, components, or ingredients, energy production or transfer, as well as those focused on warehousing and distribution, or processing/analysis of information, scientific samples, and data. Industrial activities are typically not aimed at direct sale to retail customers and take place in a zone that is situated and structured to mitigate potential disturbance of other zones by traffic, noise, smoke, and odor.

36. **“Light Industrial (Light Industry)”** means wholesale and warehousing uses as well as those industrial uses that include fabrication, manufacturing, assembly or processing of materials that are in refined form and that do not in their transformation create heavy traffic, smoke, gas, odor, dust, noise, vibration of earth, soot or lighting to a degree that is offensive when measured at the property line of the subject property. Examples of light industries include, but are not limited to, the manufacturing or assembly of clothes, shoes, furniture, consumer electronics and home appliances.

37. **“Lot”** means a tract or parcel of land platted and placed on the appropriate county clerk’s record in accordance with laws and ordinances, and with access to a public right-of-way.

38. **“Lot Area”** means the area contained within the boundary lines of the Lot.

39. **“Lot, Double Frontage”** means any Lot bordered by two (2) parallel or approximately parallel streets.

40. **“Lot Line, Front”** on an interior lot, means the line separating the lot from the street or right-of-way. On a corner or through lot, means the line separating the lot from both streets or rights-of way.

41. **“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.

42. **“Lot Line, Side”** means any Lot boundary line which is not a Front Lot Line or a Rear Lot Line.

43. **“Lounge”** means a business engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises.

44. **“Manufactured Home”** means a manufactured home or modular home that is a single-family dwelling with a heated area of at least thirty-six (36) by twenty-four (24) feet and at least eight hundred sixty-four square feet (864 sq. ft) and constructed in a factory to the standards of the United States department of housing and urban development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 or the Uniform Building Code, as amended to the date of the unit’s construction, and installed consistent with the Manufactured Housing Act and with the rules made pursuant thereto relating to permanent foundations.

45. **“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.

46. **“Meteorological Tower (Met Tower)”** means the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

47. **“Mobile Home”** means a movable or portable housing structure larger than forty (40) feet in body length, eight (8) feet in width or eleven (11) feet in overall height, designed for and occupied by no more than one (1) family for living and sleeping purposes that is not constructed to the standards of the United States department of housing and urban development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 or Uniform Building Code, as amended to the date of the unit's construction or built to the standards of any municipal building code. **Recreational Vehicles are not Mobile Homes.**

48. **“Mobile Home Park”** means a Lot on which space is leased or rented by more than one (1) Mobile Home for occupancy for thirty (30) days or more, and which contains permanent facilities and services for the use of the park occupants.

49. **“Motor Vehicle”** shall mean any self-propelled vehicle which as originally built contained an engine, regardless of whether it contains an engine at any other time, including, without limitation, automobiles, trucks, buses, motor homes, motorized campers, motorcycles, motor scooters, tractors, snowmobiles, dune buggies and other off-the-road vehicles.

50. **“Multiple Dwelling”**: see “Dwelling, Multiple”.

51. **“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.

52. **“Non-Commercial Wind Energy Conversion System (Non-Commercial WECS)”** means a wind energy conversion system that is incidental and subordinate to another use on the same parcel and supplies electrical power solely for Applicant’s on-site energy generation and consumption with an aggregate generating capacity of 100 kw or less and generating less than 40 decibels at the property line.

53. **“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.

54. **“Nuisance Vehicles”** means any inoperable, partially dismantled or wrecked Motor Vehicle of all types upon any commercial, industrial or residential property. Licensed wrecking yards are exempted provided that the property does not violate the unsightly appearance provision of this ordinance.

55. **“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.

56. **“Overlay Zone”** means a Zone District placed over other Zone Districts such that special zoning requirements are imposed in addition to those of the underlying Zone District. Development within the overlay district must conform to the requirements of both zoning districts, or the more restrictive of the two (2) districts.

57. **“Overlay Zone, Wellhead Protection”** means an area designated by the Town of Edgewood to protect the groundwater source of municipal water supply wells from Contamination originating from human activities. Development within the overlay district must conform to the requirements of both zoning districts or the more restrictive of the two (2) districts.

58. **“Parking, Off Street”** means an area on a Lot used for required parking of Motor Vehicles as regulated by this Ordinance.

59. **“Permanent Foundations”** are defined as constructed or assembled components consisting of durable materials (i.e. concrete, masonry, treated wood, or other approved materials), and are required to be constructed on-site and shall have attachments points to anchor and stabilize the Manufactured Home. The design of the foundation shall be DAPIA approved or designed by a licensed professional engineer in accordance with the manufacturer’s specifications.

60. **“Permissive Use”** means any use authorized in a particular Zone District established by this Ordinance.

61. **“Person”** means any individual, estate, trust, receiver, association, club, corporation, company, firm, partnership, or other entity.

62. **“Planning & Zoning Commission”** means the Planning & Zoning Commission of the Town of Edgewood.

63. **“Planning & Zoning Official”** means that person authorized by the Town to administer the provisions of this Ordinance.

64. **“Primary Surface”** means a surface longitudinally centered on a Runway. The Primary Surface ends at each end of a Runway. The elevation of any point on the Primary Surface is the same as the elevation of the nearest point on the Runway centerline. The width of the Primary Surface is 200 feet.

65. **“Property”** includes, in addition to the owner’s Lot or tract of land, whether improved or vacant, all easements of record, and the sidewalk, curb, gutter and parking area of any street abutting such Lot or tract of land.

66. **“Property Nuisance”** means anything that is created or maintained on any commercial, industrial or residential property within the Town limits without lawful authority which is injurious to public health, safety, morals or welfare or which by its unsightly appearance would tend to discourage residential or commercial development in its immediate area.



67. **“Public Utility Structure”** means any substation, equipment housing building, or similar structure used or operated by a public utility.

68. **“Rear Lot Line”**: see “Lot Line, Rear”.

69. **“Rear Setback”**: see “Setback, Rear”.

70. **“Recreational Vehicle”** means a vehicle which is designed or used as temporary living quarters for recreation, camping, or travel, and which may be a self-propelled motor vehicle or designed to be towed or mounted on a Motor Vehicle. Recreational vehicle also includes boats, trailers, and off road vehicles. Recreational Vehicles shall not be stored within the Front Setback of a Lot for a time period exceeding one (1) week.

71. **“Recreational Vehicle Campground”** means a Lot, which is utilized for overnight and short term parking of occupied Recreational Vehicles, tents or similar devices used solely for the purpose of temporary living and sleeping in portable housing. Maximum length of occupancy shall be ninety (90) days. No individual metered utilities will be provided.

72. **“Rotor Diameter”** means the cross sectional dimension of the circle swept by the rotating blades of a Wind Generator.

73. **“Runway”** means a defined area on an airport prepared for landing and takeoff of aircraft along its length.

74. **“Secondary Quarters”** means a secondary Building with a permanent foundation that is incidental to the main Dwelling Unit, and which is used only for noncommercial, residential purposes, including housing of caretakers, workers, and boarding guests.

72. **“Setback”** means the minimum allowable distance between any Building and the nearest Lot line of the Lot upon which it is located, consisting of Open Space, and unoccupied by any structure except as otherwise provided in this Ordinance. Walls, fences, signs, and public utility poles are exempt from Setback restrictions.

73. **“Setback, Front”** means the minimum allowable distance between any Building and the property line exclusive of any road easements of the Lot on which such Building is located. No more than one (1) Front Setback shall be designated on corner Lots or Double Frontage Lots.

74. **“Setback, Rear”** means the minimum allowable distance between any Building and the Rear Lot Line exclusive of any road easements of the Lot on which such Building is located. On Double Frontage Lots, the Rear Setback shall be designated on the opposite side of the Lot from the designated Front Setback.

75. **“Setback, Side”** means the minimum allowable distance between any Building and a Side Lot Line exclusive of any road easements of the Lot on which such Building is located. On corner Lots, a Side Setback shall be designated along one (1) of the Lot lines bordering a road or street.

76. **“Sexually-Oriented Business”** means an Adult Amusement Establishment or other commercial enterprise the primary business of which is the offering of services intended to provide sexual stimulation or sexual gratification to the customer, whether by live performance or other. Sexually-Oriented Businesses include Adult Cabarets, adult bookstores, adult theaters, adult motion picture arcades, escort bureaus, strip clubs, adult model studios, adult motels/hotels, businesses that sell or distribute adult merchandise or sexually-oriented material, or any other business which offers to its patrons products, merchandise, services or entertainment characterized by an emphasis on matters depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Parts but not including those uses or activities, the regulation of which is preempted by state law. Sexually-Oriented

Business shall also include any establishment which, as a regular and substantial course of conduct provides or allows performers, models, or employees to appear in any place in lingerie.

77. **“Side Lot Line”**: see “Lot Line, Side”.

78. **“Side Setback”**: see “Setback, Side”.

79. **“Singular Dwelling”**: see “Dwelling, Singular”.

80. **“Small Engine Repair and Service”** means a use conducted totally inside a Building involving maintenance and repair of low-power internal combustion engines or electric engines. Equipment repaired includes, but is not limited to, chain saws, string trimmers, leaf blowers, snow blowers, lawn mowers, wood chippers, go-karts and sometimes more powerful engines used in outboard motors, snowmobiles, and motorcycles.

81. **“Small Wind Energy Conversion System (Small WECS)”** means a wind energy system that (1) is used to generate electricity, (2) has a nameplate capacity of 100 kilowatts or less, and (3) has a Total Height of 170 feet or less.

82. **“Specified Anatomical Areas”** means:

- a. Less than completely and opaquely covered human genitals, pubic region, buttock or anus, and/or female breast below a point immediately above the top of the areola to and including the bottom of the breast. Covering of only the nipple and areola of the breast shall not constitute such covering;
- b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered; and
- c. A covering or device that, when worn, gives the appearance of or simulates the above listed Specified Anatomical Areas.

83. **“Specified Sexual Activities”** means:

- a. Human genitals in a state of sexual stimulation or arousal;
- b. Actual or simulated sex acts of human masturbation, sexual intercourse, sodomy, or similar acts;
- c. Fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast;
- d. Striptease or the removal of clothing to the point where Specified Anatomical Parts are minimally clad; or
- e. Any other similar acts.

84. **“Storage Trailer”** means a manufactured container, with or without a chassis and wheels, typically of metal or fiberglass construction, intended for storing or shipping goods. Examples include, but are not limited to, modular shipping containers, semi-trailers or truck bodies.

85. **“Total Height”** means the vertical distance from ground level to the tip of a Wind Generator blade when the tip is at its highest point.

86. **“Variance”** means a relaxation of the terms of this Ordinance where such relaxation will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary hardship.

87. **“Underground Storage Tank”** means a single tank or combination of tanks, including underground pipes connected thereto, which are used to contain an accumulation of fuels, Hazardous Materials, or other regulated substance, and the volume of which, including the volume of the underground pipes connected thereto, is ten per centum (10%) or more beneath the surface of the ground. This definition does not include septic tanks.

88. **“Wellhead”** means the structural element of a constructed water well which is the source of a groundwater supply system.

89. **“Wind Energy Conversion System (WECS)”** means all necessary equipment that converts and then stores or transfers energy from the wind into usable forms of energy. This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other component used in the system.

90. **“Wind Generator”** means blades and associated mechanical and electrical conversion components mounted on top of the Wind Tower.

91. **“Wind Tower”** means the monopole, freestanding, or guyed structure that supports a Wind Generator.

92. **“Zone District”** means a mapped area of the Town of Edgewood where regulations governing the use of Buildings, structures, and land are uniform.

**SECTION 5. REVIEW AND DECISION-MAKING BODIES**

**Summary of Ordinance Administration and Review Roles:**

Review and Decision-Making Bodies and Responsibilities				
PROCEDURE	SECTION	GOVERNING BODY	PLANNING & ZONING COMMISSION	STAFF
Amendments to the Text of the	Section 40	R\D	R\REC	R\REP
Annexations	Section 9 H.	R\D	R\REC	R\REP
Conditional Use Permit	Section 36	A	R\D	R\REP
Development Reviews	Section 8	N/A	N/A	R/D
Zone Changes	Section 40	R\D	R\REC	R\REP
Easements	Subdivision	N/A	N/A	N/A
Master Plans	Section 24	R\D	R\REC	R\REP
Master Plan Amendments	Section 24	A	R\D	R\REP
Subdivision of Land	Subdivision Ordinance	A	R\D	R\REP
Variances	Section 37	A	R\D	R\REP
NOTES: Staff = Planning & Zoning Administrator	“A” =Appeal “R” =Review “R/D” = Review and Decision “R/REC” =Review and Recommendation “R/REP” =Review and Report			